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HEARING

SENATE RULES COMMITTEE

STATE OF CALIFORNIA



STATE CAPITOL

ROOM 113

SACRAMENTO, CALIFORNIA

WEDNESDAY, MARCH 10, 1993

1:53 P.M.

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1 SENATE RULES COMMITTEE

2 STATE OF CALIFORNIA

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8 HEARING

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12 STATE CAPITOL

13 ROOM 113

14 SACRAMENTO, CALIFORNIA

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18 WEDNESDAY, MARCH 10, 1993

19 1:53 P.M.

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25 Reported by:

26  
27 Evelyn J. Mizak  
28 Shorthand Reporter





APPEARANCES

MEMBERS PRESENT

SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR RUBEN AYALA

SENATOR NICHOLAS PETRIS

MEMBERS ABSENT

SENATOR DAVID ROBERTI, Chair

SENATOR ROBERT BEVERLY

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

RICHARD P. GANNON, Member  
Workers' Compensation Appeals Board

KINGSTON W. PRUNTY, JR., Warden  
Sierra Conservation Center  
Department of Corrections

HECTOR LOZANO  
Chicano Correctional Workers Association

CAROL A. PINKINS, Associate Warden  
Sierra Conservation Center

EDWARD L. DAVISON, Correctional Lieutenant  
Department of Corrections

LARRY G. CARGILL, Correctional Lieutenant  
Supervisor Coalition  
Sierra Conservation Center

JOHN SEYMOUR, Executive Director  
California Housing Finance Agency





INDEX

	<u>Page</u>
Proceedings . . . . .	1
<u>Governor's Appointees:</u>	
RICHARD P. GANNON, Member Workers' Compensation Appeals Board . . . . .	1
Background and Experience . . . . .	1
Questions by SENATOR PETRIS re:	
All Problems in California Caused by Worker's Comp System . . . . .	3
Impact of Making Commission of Fraud Anywhere in System a Felony . . . . .	5
Age of Average Case . . . . .	7
Questions by SENATOR AYALA re:	
Necessity for Attorneys in Workman's Comp Cases . . . . .	8
High Costs of Workers' Comp Coverage . . . . .	9
Stress Claims . . . . .	9
Recommendation on Fair Percentage for Job-related Stress . . . . .	12
Statement by SENATOR PETRIS re:	
Vetoed Bill of Last Year which Would Have Changed Stress Requirement . . . . .	16
Motion to Confirm . . . . .	17
Committee Action . . . . .	17
KINGSTON W. PRUNTY, JR., Warden Sierra Conservation Center Department of Corrections . . . . .	18
Background and Experience . . . . .	18
Questions by SENATOR AYALA re:	
Security Classification of Institution . . . . .	20





# INDEX (Continued)

Interference of Prisoners' Work with Private Sector . . . . .	20
Desire for Additional Work to be Performed by Inmates . . . . .	21
Most Pressing Problem Department Will Face in Coming Years . . . . .	22
Problems with Illicit Drugs and Alcohol within Institution . . . . .	22
<u>Witnesses in Support:</u>	
HECTOR LOZANO, Correctional Counselor II Chicano Correctional Workers Association . . . . .	24
CAROL PINKINS, Associate Warden Sierra Conservation Center . . . . .	26
Questions by SENATOR AYALA re:	
Sexual Harassment Grievances . . . . .	27
EDWARD DAVISON, Correctional Lieutenant California Department of Corrections . . . . .	28
Questions by SENATOR PETRIS re:	
Alternatives to Incarceration . . . . .	29
Educational/Literacy Programs . . . . .	30
Ongoing Measurement of Literacy . . . . .	31
Effect on Recidivism Rate . . . . .	31
Response from JAMES GOMEZ, Director Department of Corrections . . . . .	32
Letter from LEON RALPH, Association of Black Correctional Workers, in Support . . . . .	33
<u>Witness in Support:</u>	
LARRY G. CARGILL, Correctional Lieutenant Sierra Conservation Center's Supervisor Coalition . . . . .	34
Questions by SENATOR PETRIS re:	
Alternatives to Incarceration . . . . .	34



INDEX (Continued)

Parolees Returning Due to Technical Violations . . . . .	35
Programs at Sierra Conservation Center . . . . .	37
Qualifications for Inmates to be Assigned to a Conservation Camp . . . . .	38
Employability . . . . .	38
Program at Donovan Prison in San Diego . . . . .	39
Motion to Confirm . . . . .	40
Committee Action . . . . .	40
JOHN SEYMOUR, Executive Director California Housing Finance Agency . . . . .	40
Plans and Objectives . . . . .	41
Questions by SENATOR PETRIS re:	
Small Percentage of Loans Going to Lower Incomes . . . . .	43
Need for Agency to Remain Self-supporting . . . . .	44
Support for G.O. Bond Issue . . . . .	45
Aggressive Exploration of Revenue Sources . . . . .	45
Difficulty of Single Mothers Getting into Program . . . . .	46
Geographic Problems with Former Director . . . . .	46
Statement in Support by SENATOR PETRIS . . . . .	47
Questions by SENATOR AYALA re:	
Position on Efforts to Provide Startup Fund for Infrastructure Bank from Statewide Bond . . . . .	49
Position on Majority Vote to Pass Bond Measures . . . . .	49
Motion to Confirm . . . . .	50
Committee Action . . . . .	50





INDEX (Continued)

Compliments to Appointments Consultant . . . . .	51
Termination of Proceedings . . . . .	51
Certificate of Reporter . . . . .	52





## P-R-O-C-E-E-D-I-N-G-S

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SENATOR CRAVEN: Let's go next to Governor's appointees appearing today and begin with Richard P. Gannon, Member of the Workers' Compensation Appeals Board.

If Mr. Gannon will come up, please. Have a seat up there.

If you will, Mr. Gannon, tell us why you feel you are qualified for this job?

MR. GANNON: Thank you, Senator.

The Legislature, in accordance with the California Constitution, provided for the settlement of any dispute arising under workers' compensation legislation to be handled by the Industrial Accident Commission, or now the Workers' Compensation Appeals Board.

For the past 22 years, a major part of my life has been associated with the resolution of disputes. After being discharged from the Marine Corps in 1967, I served an apprenticeship as a surveyor, and then worked as a crew chief on a survey party. I soon learned that on a construction site, the surveyor is the one everybody comes to to resolve disputes on how the job is to be done. This part of my job as a surveyor was one that I found that I really especially enjoyed.

This interest is what attracted me to becoming a union representative. As a business agent for the Operating Engineers Local 12, I became interested in alternative ways to resolve disputes between labor and management, other than strikes, lockouts, and other economic actions. I was fortunate



1  
2 to have my local union select me to attend Harvard University's  
3 Trade Union Program. The focus of this training at Harvard was  
4 to learn the other party's concerns in order to propose a  
5 settlement or compromise that both parties could accept. The  
6 Trade Union students attended joint labor relations classes with  
7 the Graduate School of Business students. We had to present the  
8 management arguments, and the M.B.A. students had to present the  
9 union positions.

10 Having demonstrated the ability to understand both  
11 labor and management's concerns, I was selected by the Union and  
12 the owners of companies in the civil engineering and land  
13 surveying industry in Southern California to be the  
14 administrator of their Apprenticeship and Journeyman Training  
15 Program. In this capacity, I was in charge of a three-quarter  
16 of a million dollar a year operation, employing 12 full-time  
17 administrative staff and 30 part-time instructors. This  
18 experience gave me insights into the many problems faced by  
19 similarly sized small businesses, including problems with  
20 workers' compensation claims.

21 My academic training in college was in the field of  
22 mathematics and logic. This background has helped me to be able  
23 to analyze the contentions and positions of parties in a dispute  
24 and weigh the options available in proposing a resolution to the  
25 problem that both sides could buy into.

26 However, the real test of my ability to resolve  
27 disputes between parties who have extremely divergent views came  
28 when I became president of the local Little League where I live.

[Laughter.]





1 I was the ultimate arbitrator between parents and  
2 coaches, coaches and umpires, and anybody else who wanted to get  
3 into an argument.

4 SENATOR CRAVEN: That's really tough.

5 MR. GANNON: I successfully survived for five years  
6 in that capacity.

7 From there, in the community, I was elected to the  
8 local school board, and having served for the last three years,  
9 and one more year to go on that term, I have learned what it's  
10 like to be a governmental body and to deal with the fiscal  
11 problems that school boards are dealing with today.

12 I believe that all of my experience, starting with  
13 the time in the service in the Marine Corps, going into the  
14 apprenticeship and work in the construction industry, as a union  
15 representative, being the administrator of a small business  
16 training program, has enabled me to have the judicial  
17 temperament and the ability that's required of a Workers'  
18 Compensation Appeal Board Commissioner by Section 112 of the  
19 Labor Code.

20 SENATOR CRAVEN: Very good, thank you very much.

21 Senator Petris.

22 SENATOR PETRIS: Thank you, Mr. Chairman.

23 We've been hearing a lot of talk about problems with  
24 workers' comp over the last couple or three years.

25 Do you believe that all our problems in California  
26 are caused by the workers' comp situation?

27 MR. GANNON: No, sir, I do not.

28 SENATOR PETRIS: How much of it?





1 MR. GANNON: Workers' comp has become very visible.  
2 Working in the land development and construction industry, I  
3 would say one of the major problems that people had expressed to  
4 me prior to becoming this in this position were the permitting  
5 issues, and the business's ability to expand for development  
6 projects, to get started, and things like this, as a major  
7 concern.

8 Workers' compensation is a frustration, I think.  
9 While I was the administrator, the 12 years I was administrator  
10 of the Apprenticeship Program, we had two workers' compensation  
11 claims filed. Both of them involved the stress components.

12 It was frustrating to me to -- as the person who, in  
13 effect, they were filed against, being the manager of the  
14 company, was -- or the training program, to understand that  
15 workers are frustrated by the pressures that anything puts them  
16 into, and they have this reaction. One of them, I felt, was  
17 justified. A person was going through a divorce, and certainly  
18 the pressures of the work contributed to that.

19 The other one, I felt, it wasn't justified. There  
20 was an employee who really was not in a stressful situation.  
21 Yet, we as the people involved in the company or the business  
22 enterprise did not have an opportunity to say what happened.  
23 The insurance company took off and ran with it, and we didn't  
24 really have any control to say: yes, no, settle it, don't  
25 settle it, or anything else. And the rates went up.

26 And it's that lack of control, and lack of being able  
27 to do anything which, I think, is causing the frustration that  
28 people are experiencing. And if you'd permit me to suggest,



1 maybe it needs to be addressed.

2           SENATOR PETRIS: We're working hard to come up with  
3 an agreement this year. One of the bills that passed one of the  
4 committees is one of them. There'll be several bills on the  
5 subject.

6           I guess what you're saying, if we'd solved that  
7 workers' comp problem altogether and put it away, we still  
8 haven't solved the rest of our problems relating to business.

9           MR. GANNON: No, I think it's a perception that  
10 people have, and perceptions become reality. But I think it's a  
11 perception that a lot of people have that it is a problem, but I  
12 don't think it's -- you could have a perfectly operating  
13 workers' compensation system, and we would still have an awful  
14 lot of the problems in California, I believe.

15           SENATOR PETRIS: That hasn't come through in the  
16 current discussion of the problem. That's why I asked you.

17           Have you had any chance to evaluate the impact of the  
18 Presley bill that we passed about three years ago making the  
19 commission of fraud anywhere in the system a felony, whether  
20 it's done by a worker, or a doctor, or a lawyer? Has there been  
21 any feedback at your level regarding the impact of that law on  
22 the problem, on the fraud part of the problem?

23           MR. GANNON: We see a number of cases being referred  
24 to the Fraud Unit for follow-up.

25           If you're asking have we seen any deterrent effect,  
26 or any impact, it's hard to say in the review of the cases, in  
27 the scope of what we have. We have -- usually at the  
28 administrative law judge level, the workman's compensation judge





1 level, if there's a hint that there's some fraud by any party,  
2 it is referred to those local district attorneys and the Fraud  
3 Investigation Units to follow up on it.

4           The fines, the \$1,000 fines, are -- it's like  
5 anything else. It's so difficult to get to the point -- I can't  
6 say honestly that I have seen any impact; although, I have seen  
7 that a number of cases are being referred that way, and I  
8 believe in the long run, the requirements to make people certify  
9 that they understand under penalty of perjury, under penalty of  
10 fraud, and everything else, that everything they're claiming is  
11 accurate, all of the reports that the doctors do are required,  
12 and they actually did certain things, will have an impact.

13           SENATOR PETRIS: Of course, I know you're one step  
14 removed at the appellate level from the actual hearing of the  
15 cases.

16           I was also thinking beyond that, on the outside. The  
17 bill calls for criminal prosecution by the local D.A. Has any  
18 report filtered back to you regarding any degree of activity on  
19 that side of the solution?

20           MR. GANNON: No, it really hasn't.

21           The people -- general conversation, people talk  
22 about getting injured. And I think some of the frustration is  
23 when they have no medical insurance where they work. They think  
24 about, if they get injured over the weekend, they would think  
25 about, "I hurt my back on Monday."

26           I think that most people are basically honest, and  
27 given that additional knowledge and the billboards that you see  
28 along the highway, "Fraud Stops Here", and a picture of three



1 people in a cell will have an impact. It's my gut feeling, but  
2 I really don't have any feeling other than that.

3 SENATOR PETRIS: How old is the average case now when  
4 it reaches you for consideration?

5 MR. GANNON: When were the injuries, you mean?

6 SENATOR PETRIS: Yes, or when was the claim filed?

7 MR. GANNON: The claimed filed -- by and large, the  
8 cases we're getting are now into the revised legislation,  
9 post-'90 injuries. Occasionally there'll be one that's pre-'90  
10 and falls under the previous set of rules, but by and large, the  
11 cases we're getting now are injuries that occurred after January  
12 of 1990.

13 SENATOR PETRIS: That's when we imposed the 60-day  
14 rule.

15 MR. GANNON: Right, that's where a number of changes  
16 in the 1989 Reform Act were effective, and affected with  
17 injuries occurring January 1st and on, the agreed medical  
18 examiner and the processes that they go through, which do seem  
19 to be, in my opinion -- I haven't a lot of experience with the  
20 previous part -- but they do seem to be working pretty well.

21 SENATOR PETRIS: So, the improvements are taking  
22 hold, little by little?

23 MR. GANNON: I believe so.

24 SENATOR PETRIS: Thanks, Mr. Chairman.

25 SENATOR CRAVEN: Senator Ayala.

26 SENATOR AYALA: Mr. Gannon, you indicated that you're  
27 a former Marine, and that you served with the Little League  
28 people.





1           Are you sure you've got the right temperament for the  
2 job?

3                               [Laughter.]

4           SENATOR AYALA: I'm familiar with the workman's comp,  
5 because I sold it at one time, and it is no-fault insurance. If  
6 it's no-fault insurance, the employee gets compensated for an  
7 injury related to the workplace, and also compensated should he  
8 lose a limb, or an eye, or something of that nature. There's  
9 limitations to that.

10           If it's no-fault, and all the law spells it out, why  
11 do we need attorneys involved in this thing?

12           MR. GANNON: I think attorneys are necessary to a  
13 degree the same way I feel that working people occasionally need  
14 union representation on the job site, to give the worker a  
15 balance in a case against, in some cases, where the worker  
16 would perceive, or maybe actually there is, an unbalanced  
17 employer insurance company effort to -- not to give him every  
18 right that he's entitled to.

19           I think that the attorneys representing applicants do  
20 a good job in making sure that people understand what their  
21 rights are, make sure that the pursue everything that they're  
22 entitled to.

23           I personally don't see a lot of abuse to the system  
24 by the average applicant attorney. There are exceptions to  
25 that, of course, and they've been recently relatively well  
26 publicized. But by and large, they provide a pretty good  
27 service for the injured worker.

28           Many times, the injured worker really doesn't



1 understand what his rights are, and what he can do, and the  
2 long-term consequences of a rather severe injury on the job  
3 site. And I think just for the peace of mind, knowing that he  
4 has obtained everything he is entitled to, it works pretty well  
5 that way.

6 SENATOR AYALA: Well, as you well know, workman's  
7 comp is in a mess in California. People can't afford it anymore  
8 because of the cost of medical bills, and attorney fees, and all  
9 these other things that go with it.

10 It appears to me that if you knew that we you were  
11 covered, are you telling me that the average person wouldn't  
12 know what he was covered for; therefore, he needs an attorney to  
13 tell him what he has coming to him or her?

14 It seems to me that in many cases, most cases that  
15 I'm aware of, the employee was pleased with the end result, but  
16 someone talked him into going to court to get more than what  
17 workman's comp called for. And that is, in many cases, the  
18 reason that the cost of workman's comp has gone up is the fact  
19 that courts are awarding higher awards, and costs of the  
20 attorney fees are so great that even the employee gets very  
21 little as a result of all this, but someone is paying for it,  
22 and that's the employer. That's who paying for the whole thing,  
23 because there's no other contribution except the employer.

24 Give me your thoughts on claims that are submitted  
25 for stress.

26 MR. GANNON: We deal with stress components in some  
27 of the cases. Some are strictly stress; some are stress as a  
28 result of the injuries. And it's the part of the law that has





1 been the hardest for me to understand in learning the law and  
2 the cases that go along.

3           There's a separate -- separate schedule, I guess, for  
4 permanent disability benefits based on psychological injury as  
5 opposed to a physical injury.

6           My feeling, and again, this is just a reaction from  
7 having studied some of the cases, and I well recognize the  
8 differentiation between an appeal body and a legislative body,  
9 but I think that the correlation between the acts -- the injury  
10 and the long-term permanent impairment to somebody under  
11 psychological injuries and physical injuries could be looked at  
12 a little bit closer so that they come more into balance.

13           Being psychologically, the schedule that's set up to  
14 -- for the psychological injuries appears to be somewhat  
15 different than the same -- and it's hard for me to relate to  
16 that. It's hard for me to understand exactly the impact of it.

17           I've seen injured workers on construction sites  
18 who've had some severe accidents, and I can see what happens to  
19 them, and what their limitations are, and their inability to  
20 continue to work.

21           How psychological injuries were -- would impact a  
22 person, I haven't had much experience with that, and it's hard  
23 for me to visualize the limitations that person would have. And  
24 I think a lot of thought needs to -- still more thought go into  
25 how that really plays out down the line.

26           Not to minimize the fact that some people can get --  
27 get severe psychological problems and be prevented from  
28 competing in the open workplace, but I think it -- and the



1 testing. If you lose a hand, you lose a hand and it's pretty  
2 visible. The testing that goes through to determine these  
3 injuries is an inexact science, and I think that that's part of  
4 the problem there. It's just -- it's so different, it's hard to  
5 bring them together, but I think it's going to be a challenge  
6 for the state to come up with -- without throwing it out and  
7 saying, "All psychological injuries are fraudulent or wrong,"  
8 how do you separate the real ones from the unreal ones?

9 SENATOR AYALA: There's no doubt there are legitimate  
10 cases. I don't think that anyone will dispute that.

11 But some of the claims I've seen are making a mockery  
12 out of the workman's comp system. They're really -- it's a big  
13 joke, what some of the people put in for, and in many cases it's  
14 because they're in over their heads, you know, in what they're  
15 doing.

16 But there's no doubt there's stress in law  
17 enforcement and some of these things that take a lot of tension.

18 But I mean, some of these cases that I have on record  
19 from people who are complaining about not getting compensated  
20 for stress, they're really a big joke, in my opinion. And we  
21 should make that a fair deal.

22 If they really have a legitimate case, they should be  
23 compensated, but there's so many faulty claims that, you know.  
24 For instance, the law today says that all you have to prove is  
25 that 10 percent of the stress is job-related.

26 MR. GANNON: Right.

27 SENATOR AYALA: That's so much baloney, in my  
28 opinion. You get 10 percent stress at work, but 90 percent at





1 home, where who knows what's taking place at home? The kids are  
2 addicted to drugs, and there's a problem at home; yet, the  
3 employer pays for that because all they have to prove is 10  
4 percent was workplace related.

5 So, I have a lot of problems with that. When I sold  
6 a lot of workman's comp insurance, no such thing existed as  
7 stress, you know. And now we've got stress, and I don't what  
8 they called it then, but there's stress in everything we do.  
9 Everyone who works for a living has some kind of a stress. I  
10 guess we all should put in for a workman's comp claim, you see,  
11 because we've got stress.

12 So, I am very concerned about that problem we're  
13 facing today with workman's compensation claims. And I'm really  
14 hopeful that we can do something here to reform that, not to  
15 take away rights of people that have services and benefits  
16 coming, but to stop the abuses that are forthcoming strictly on  
17 the stress claims.

18 You can't prove that someone doesn't have stress.  
19 It's like a headache or a backache. You can't prove that, so  
20 people take advantage of it. And the first thing they do when  
21 they get fired, or they lose their job, they put in a claim for  
22 stress, you know.

23 I think we all could put in a claim for stress,  
24 especially in this building here. You know, it's stress  
25 everyday and everywhere we go.

26 I just wondered how we're going to correct that, and  
27 what would you recommend as a fair percentage of job-related  
28 stress to be compensated?



1 MR. GANNON: That's an interesting question, and the  
2 percentage --

3 SENATOR CRAVEN: I don't know that it was a question,  
4 but I think more an editorial comment.

5 SENATOR AYALA: We're not going to hold you to that.

6 MR. GANNON: No, I understand it's not going to --  
7 what I say today is not going to change the industry in that  
8 respect.

9 As I said before, I think -- I think the key to it is  
10 setting up ways of measuring how stress which is primarily  
11 caused by a job -- and whether that "primarily" means 50 percent  
12 or more, I'm not sure -- but primarily -- stress caused by the  
13 job precludes a person from competing in the workforce, and  
14 therefore they have some level of permanent disability.

15 Coming up with the magic formula, and so much of what  
16 workers' compensation does is on formulas. If you have a back  
17 injury and you're limited to no heavy lifting, that triggers a  
18 certain number and you get a percentage disability based on  
19 that.

20 To come up with the right numbers in psychological  
21 injuries that people feel are fair, and to identify and to  
22 almost scientifically be able to prove that this person really  
23 has had this -- the two examples I was talking about when I had  
24 employees working for me who filed stress claims, I felt one was  
25 fraudulent and I felt one was very -- was very realistic. When  
26 you have somebody having outside stress such as divorce and  
27 things like this, and they're not -- they're preoccupied with  
28 that and not with their work, then the employer's going to say,





1 "Listen, you're hired for a particular job. You have things to  
2 do." They're introducing more stress on the individual, and in  
3 some cases that individual breaks down.

4 That's what happened to the fellow that was working  
5 in our training program. He was broken down. He was -- he flat  
6 could not do anything. He was incapacitated.

7 To separate those claims from the person who wants to  
8 take a vacation, wants to leave, and says "stress", and the  
9 insurance company settles with them for a token amount because  
10 of the -- it's easier to do that than to prove it didn't happen,  
11 and go through the legal challenges, and everything else, and  
12 then back charges the company for the cost of that settlement,  
13 to separate those types of claims is going to be a challenge.  
14 It's going to take a lot of expert input from people who  
15 understand psychological injuries and people who understand the  
16 workplace and putting them together, I think.

17 SENATOR AYALA: It's going to take a long time. Are  
18 we doing it now? Are we in the process of trying to come up  
19 with some kind of a solution?

20 Given that scientifically and medically, we can't  
21 really tell what percentage is a good percentage, do you think  
22 10 percent is much, much too low?

23 MR. GANNON: It's -- it probably is. However, the  
24 workers' compensation system is set up for a person who has what  
25 they call the egg shell, who is a fragile person, and they may  
26 have a propensity toward a back injury, or something like this.  
27 They're working fine, and then all of a sudden it is the job  
28 component that triggers the disability, and therefore the



1 payment of medical, the payment of temporary time off,  
2 regardless of their propensity toward this, when it actually  
3 happens and it's determined that it happened because of this  
4 incident on a job, then it's compensable.

5 Now, the permanent disability, the long-term  
6 disability that they're entitled to, is -- is figured by a  
7 formula of how much did this tendency toward it, and would they  
8 have had a disability at a particular time in the absence of the  
9 industrial injury figures into the calculation of the permanent  
10 disability.

11 Using that same formula, that needs to be looked at  
12 by people familiar, again, with psychological injuries and say,  
13 well, if we're going to try and make it percentage-wise, what  
14 percentage-wise is it the same thing? If they -- would they  
15 have had an injury absent -- because of their outside stresses,  
16 would they have had some disability, and if so, it's  
17 nonindustrial. If it's strictly there's some disability  
18 strictly attributable to some particular problem at work, and  
19 things like that, this is -- this is a way that it might be  
20 approached.

21 The other thought I have is that I think one of the  
22 things that needs to be done is the awareness of people in the  
23 workplace and supervisors as to try to understand that some of  
24 the psychological stress is by people claiming continual  
25 beratement, and unfair pressures, and people give into that. I  
26 mean, there's too much pressure on the job, and finally they  
27 have some breakdown, or something that occurs that causes them a  
28 disability.





1           Some of that can be prevented with education, and I  
2 know the insurance companies will go out and look at your  
3 workplace, and look at your hazards on the job and say you  
4 should correct these hazards. And your Senate Bill 30, I  
5 believe it was, that requires workplace safety inspections and  
6 things.

7           SENATOR AYALA: Yes, but the problem with some of  
8 those things is that if the employer, before he hires someone,  
9 knows that that individual is fragile, like you said a while  
10 ago, and subject to all these kind of claims, if he refuses to  
11 hire them because of that, that's discrimination.

12          MR. GANNON: That's true.

13          SENATOR AYALA: So the employer can't win or lose on  
14 that for losing on that deal, and I don't understand that.

15          But anyway, as you well know, that's one of the major  
16 problems facing us today. I sincerely hope that you'll be able  
17 to assist us in paving the way for some of the problems we're  
18 facing there.

19          MR. GANNON: I certainly would be interested in that.

20          SENATOR CRAVEN: Senator Petris.

21          SENATOR PETRIS: Well, maybe I can help.

22          As a member of the Industrial Relations Committee,  
23 last year we passed a bill that required the worker to show that  
24 the predominant cause of stress was work-related as part of a  
25 package. Unfortunately, the Governor vetoed it. He felt the  
26 package didn't go far enough, and I think he got about 90  
27 percent. Instead of taking that and working on the next 10  
28 percent this year, he killed the whole thing.



1           So, I believe we're going to pass that bill again --  
2 I don't mean just the committee. It went through both Houses --  
3 and take care of that plus some of the other problems you  
4 mentioned. So, we might take care of it, so it'll make it  
5 easier on the process, too.

6           SENATOR CRAVEN: Thank you.

7           Is there anyone here who wishes to speak on behalf of  
8 Mr. Gannon and his appointment? Anyone who stands in objection?  
9 There appears to be no one.

10          SENATOR AYALA: I move the appointment of Mr. Gannon  
11 to the Workman's Compensation Appeals Board.

12          SENATOR CRAVEN: Moved by Senator Ayala.

13          Call the roll, please.

14          SECRETARY WEBB: Senator Ayala.

15          SENATOR AYALA: Aye.

16          SECRETARY WEBB: Ayala Aye. Senator Beverly.  
17 Senator Petris.

18          SENATOR PETRIS: Aye.

19          SECRETARY WEBB: Petris Aye. Senator Craven.

20          SENATOR CRAVEN: Aye.

21          SECRETARY WEBB: Craven Aye. Senator Roberti.

22          The vote is three to zero.

23          SENATOR CRAVEN: The vote is three to zero; the  
24 measure's out to the Floor.

25          Congratulations.

26          MR. GANNON: Thank you. I appreciate it.

27          SENATOR CRAVEN: Next we have Kingston W. Prunty,  
28 Jr., Warden, Sierra Conservation Center, Department of





1 Corrections.

2 MR. PRUNTY: Mr. Chairman.

3 SENATOR CRAVEN: How are you, sir.

4 MR. PRUNTY: I'm fine.

5 SENATOR CRAVEN: Could you tell us, please, why you  
6 feel qualified for this position?

7 MR. PRUNTY: I've been an employee of the California  
8 Department of Corrections for the last 22 years. During that  
9 time, I've had the opportunity to work in a progression of  
10 assignments that have prepared me and developed my  
11 qualifications for this position.

12 I began with the Department of Corrections in 1971 as  
13 a correctional officer at Folsom Prison. While I was there, I  
14 received a Bachelor's Degree in Criminal Justice from the  
15 California State University, Sacramento. Subsequently, I worked  
16 at the California Men's Colony as a correctional program  
17 supervisor, and for the succeeding 10 years, while assigned to  
18 Dueul Vocational Institution, I served in the capacity of  
19 correctional sergeant and lieutenant. I also had the  
20 opportunity to function as the institution's public information  
21 officer, the administrative assistant to the warden, in-service  
22 training manager, and commander of the institution's special  
23 emergency response team.

24 I also instructed courses at a -- at Corrections at  
25 the community college level.

26 In 1985, I had the opportunity to serve as a  
27 correctional captain at Sierra Conservation Center, and the  
28 following year took a lateral transfer to the newly opened



1 maximum security complex at Tehachapi where, as a program  
2 administrator, I had the opportunity to convert parts of that  
3 facility from Level IV general population housing to security  
4 housing units.

5 In 1987, I was appointed as the Chief of the Training  
6 Services branch of the Department, where I was responsible for  
7 statewide oversight of the Department's training programs,  
8 including the basic Correctional Officers Academy, the local  
9 In-service Training Programs, and the Department's Management  
10 Training Program.

11 In 1989, I was appointed as the Chief Deputy Warden  
12 at the Richard J. Donovan Correctional Facility, San Diego, and  
13 served there for three years until April, 1992, when I was  
14 appointed as Warden at Sierra Conservation Center.

15 The Department has provided me with a broad base of  
16 experience in both line and staff positions, in supervision and  
17 management. I've served at six different correctional  
18 facilities, from minimum security to maximum security, including  
19 security housing units.

20 My experience includes: security and custody,  
21 classification, training, emergency operations, personnel  
22 management and fiscal management.

23 My commitment is to public service and public safety,  
24 to providing a safe working environment for the personnel, a  
25 humane and safe living environment for the inmates, an  
26 environment where behavioral change can occur.

27 I think because of the breadth of my experience and  
28 my commitment, that I can provide the leadership that is





1 essential in the safe and efficient management of a correctional  
2 facility.

3 SENATOR CRAVEN: Very good.

4 When you mentioned San Diego, are you referring to  
5 Donovan?

6 MR. PRUNTY: Yes, sir, I am.

7 SENATOR CRAVEN: Do we have any questions at this  
8 time. Senator Ayala.

9 SENATOR AYALA: Mr. Chairman, I'd like to ask the  
10 gentleman, this is a Class I institution; is that right?  
11 Inmates are Class I?

12 MR. PRUNTY: Actually it's a multi-facility, has  
13 Level I, II, and III.

14 SENATOR AYALA: Minimum security.

15 MR. PRUNTY: Parts of it are minimum security; parts  
16 of it are medium.

17 SENATOR AYALA: And a lot of work is done within the  
18 prison grounds. How much of it is done that would have a  
19 tendency to interfere with the private sector?

20 MR. PRUNTY: I don't believe we interfere at all with  
21 the private sector.

22 We have community service crews that provide services  
23 to only tax-supported public agencies, a variety of services  
24 that we do provide.

25 The inmates in the institution that are not allowed  
26 outside the perimeter also provide services for those same  
27 entities. The inmates that are assigned to the conservation  
28 camps do public service: fight fires and floods.



1           We are pursuing joint venture programs where we can  
2 work in a cooperative manner with a private vendor, but to date  
3 we have not been successful.

4           But we have no programs inside that really compete  
5 with private industry.

6           SENATOR AYALA: Is this program, Mr. Gomez, similar  
7 to the one you have next to CIM? The forestry fighting unit  
8 there?

9           MR. GOMEZ [FROM THE AUDIENCE]: He's responsible for  
10 about 25 of 40 camps; that's one of those.

11          SENATOR AYALA: But it's similar to that.

12          MR. GOMEZ [FROM THE AUDIENCE]: It's similar. That's  
13 one of those camps.

14          SENATOR AYALA: What additional work would you like  
15 to have inmates perform within the institution that you don't  
16 have now? Anything that you feel would be beneficial to all  
17 concerned?

18          MR. PRUNTY: Well, I can tell you that Sierra  
19 Conservation Center probably is -- has the best mission this  
20 Department has, and that -- and the inmates at that facility  
21 provide a higher level of public service than other institutions  
22 are able to provide because of our mission to train inmates for  
23 service in the conservation camps.

24          We do have a fair amount of inmates that we do not  
25 have meaningful employment for. I would like to pursue a joint  
26 venture because I think that is a program that can provide real  
27 life work experiences for the inmates and have a lot of positive  
28 impact, both on the self-esteem of the inmate, and require them





1 to pay some of their own costs of incarceration.

2           SENATOR AYALA: Aside from the overcrowding that  
3 we're experiencing today in our prison system, in the next five  
4 years, outside of the crowded conditions, what do you feel is  
5 the most pressing problem the system will be facing?

6           MR. PRUNTY: Overcrowding has been with us forever.

7           SENATOR AYALA: Mr. Gomez says that, too.

8           MR. PRUNTY: He may have more insight in that than I.

9           But I see more of the same. We have been involved in  
10 the most aggressive prison construction program in any state in  
11 the United States. We've found that the faster we build them,  
12 the behinder we get. We can't build our way out of this, even  
13 though we have done a fair amount of attempting to, to keep up  
14 with it.

15           I think we need to take a look at how we do business.  
16 The methods of incarceration, maybe alternative forms of  
17 incarceration, and some innovative forms, maybe like the boot  
18 camp program that was recently activated at San Quentin.

19           SENATOR AYALA: Do you have any problems at your  
20 institution with illegal use of drugs and alcohol within the  
21 premises by inmates?

22           MR. PRUNTY: Yes, sir, we do.

23           SENATOR AYALA: I really can't understand that,  
24 because I don't know how -- well, they sneak it in some way, but  
25 what can we do to eliminate that sort of thing? Do you have any  
26 ideas

27           MR. PRUNTY: My opinion --

28           SENATOR AYALA: How many people are at your



1 institution?

2 MR. PRUNTY: There are 4,000 inmates at the facility,  
3 and 2200 in the camps.

4 SENATOR AYALA: And you have illegal drugs and  
5 alcohol within the premises?

6 MR. PRUNTY: Yes, sir, we do.

7 SENATOR AYALA: Do families bring it in, or how do  
8 they get that?

9 MR. PRUNTY: The overwhelming majority of illegal  
10 drugs and other contraband that is introduced within the  
11 institution comes through the visitors and families, either  
12 through contact visiting, family visiting, or in packages  
13 received for the inmates.

14 There are occasions when we have an employee who  
15 falls from grace and brings some illegal contraband in, but  
16 those are rare exceptions rather than the rule.

17 As long as we allow the contact visiting and do not  
18 do any intrusive searching of the visitors, we can expect that  
19 there will still be trafficking of contraband inside the  
20 institution.

21 SENATOR AYALA: We may not be able to eradicate the  
22 problem altogether, but any recommendation you have to minimize  
23 it?

24 MR. PRUNTY: The only recommendation I could have,  
25 Senator, is if we are going to pursue that, then we need to take  
26 a look at the contact visiting we do allow, or either provide  
27 more emphasis on the searching of the visitors as they come in  
28 now.





1           As it occurs now, the metal detection screening is  
2 the basic screening we do for the visitors, unless we have some  
3 reason to believe they are in fact bringing in contraband, and  
4 then we can subject them to unclothed body searches and other  
5 means.

6           SENATOR AYALA: I have no other questions, Mr.  
7 Chairman.

8           SENATOR CRAVEN: Very well.

9           Is there anyone in the audience who wishes to speak  
10 in favor of the nominee? Yes, would you come forward, please,  
11 and state your name.

12          MR. LOZANO: Yes, my name is Hector Lozano.

13          Mr. Chairman, Members of the Committee, thank you for  
14 giving me the opportunity to speak today. My name is Hector  
15 Lozano, and I'm a Correctional Counselor II at the Sierra  
16 Conservation Center.

17          Today, however, I'm representing the Chicano  
18 Correctional Workers Association, which is a nonprofit  
19 association. It consists of approximately 2,000 members  
20 throughout the State of California at various prisons and parole  
21 officers.

22          I'm here today to express my strong support for Mr.  
23 Prunty's confirmation. Briefly, I'd like to say that some of  
24 the reasons for it are that hiring of qualified minorities and  
25 women continues very well at SCC. I could have probably come to  
26 you today with some graphs, statistics, and so forth, but I  
27 think what I wanted to touch on was the qualitative aspects of  
28 Mr. Prunty as a Warden.



1           When Mr. Prunty worked at DVI in Tracy as a  
2       correctional lieutenant, I was an officer and he happened to be  
3       my lieutenant. At that point, I realized that he had a great  
4       sense of fairness about him. And I think that everyone that  
5       worked for him also recognized that fairness.

6           When he came to Sierra Conservation Center as a  
7       correctional captain, that sense of fairness continued, and  
8       certainly now as the Warden it continues.

9           He constantly promotes good staff morale, and he does  
10      this, for example, by means of maintaining an open door policy.  
11      And I don't want to just say open door policy as people say it.  
12      Many people don't have their doors open long enough to have an  
13      open door policy. Mr. Prunty does.

14          On a continuing basis, he meets with various groups,  
15      bargaining units, and individual staff persons, and is always  
16      willing to address any issues that they may raise.

17          Perhaps the clincher behind all this, though, is that  
18      Mr. Prunty demonstrates a genuine interest, a genuine commitment  
19      toward his staff and institution that he manages. It is not  
20      often that you see that type of a commitment by administrators  
21      and the management style is an excellent one.

22          In conclusion, I'd just like to say that he is indeed  
23      an excellent nominee for the position of Warden. I don't  
24      believe that the Director or the Governor, or perhaps even this  
25      Committee, is going to find a better candidate to be Warden at  
26      our facility. And I would just so ask that this Committee  
27      recommend to the full Senate confirmation of Mr. Prunty as  
28      Warden at the Sierra Conservation Center.





1           SENATOR CRAVEN: Thank you very much, sir.

2           Do you have the spelling of Mr. Lozano's name?

3           MR. LOZANO: It's L-o-z-a-n-o, for the record.

4           SENATOR CRAVEN: I had somebody teach me Spanish by  
5 that name, and he spoke nothing but Spanish in class.

6           MR. LOZANO: I could speak Spanish, if you'd like.

7           SENATOR CRAVEN: The first day he came into class, he  
8 said something in Spanish to all of us, and everybody looked at  
9 the other one and said, "What did he say?" Some guy said, "He  
10 said, 'Class dismissed,'" and everybody got up and walked out.  
11 A great way to start a study of the Spanish language.

12           It's nice to have you with us. I might add, he  
13 called himself "Lothano", because he was a Castillan, I guess.

14           MR. LOZANO: He mispronounced it.

15                               [Laughter.]

16           SENATOR CRAVEN: All right.

17           Anyone else who wishes speak in favor of the nominee?  
18 Yes, please come forward, if you would.

19           MS. PINKINS: My name is Carol Pinkins. I'm an  
20 Associate Warden at Sierra Conservation Center.

21           SENATOR CRAVEN: Very good, nice to have you.

22           MS. PINKINS: I have worked with Bud Prunty for  
23 approximately one year, and prior to that I worked with him as a  
24 peer.

25           One of the things I'd like to say on behalf of Mr.  
26 Prunty is that he is a very ethical and special person to Sierra  
27 Conservation Center mainly because he is one of the few people  
28 that I have ever worked for who actually wants to do the right



1 thing. And I think that's important in this line of business.

2 When Bud initially came to Sierra, I kind of felt  
3 Sierra was cruising along and once he got there, we'd shift  
4 gears. And now he holds us accountable for who we are, which  
5 are state workers, and he asks questions. And with the budget  
6 crisis as it is today, he wants us to be good state workers, and  
7 he's holding us accountable, and I think that's important today.  
8 But basically, wants us to be good employees, and he tells us  
9 that he cares about us, and that's beginning to filter down to  
10 the employees in the institution.

11 And he's concerned about how we treat inmates, how we  
12 treat each other. And I think today, that's very important.

13 We talked about the stress issue earlier, and I think  
14 that's part of it, how we treat people; how we deal with  
15 employees; whether it's adverse action, whether it's correcting  
16 employees, it's very important. And I think that that is a way  
17 that we will, in the Department of Corrections, probably prevent  
18 some of the stress that we're seeing today as state workers.

19 And I feel that if Bud is not confirmed as the Warden  
20 at Sierra Conservation Center, it's going to be a great loss for  
21 the staff as well as the inmates at Sierra Conservation Center.

22 SENATOR CRAVEN: Thank you very much.

23 SENATOR AYALA: Can I ask the lady a question?

24 SENATOR CRAVEN: Senator Ayala.

25 SENATOR AYALA: Have there been any sexual  
26 harassment grievances surface at your institution?

27 MS. PINKINS: Yes, there has.

28 SENATOR AYALA: How have they been handled?



1 MS. PINKINS: I am the EEO Affirmative Action  
2 Coordinator at Sierra Conservation Center, and I've been in that  
3 position for one year.

4 What we try to do is handle that informally, and we  
5 do that by getting the two parties together, talking about it.  
6 And there has been adverse action taken against staff who have  
7 participated in sexual harassment.

8 SENATOR AYALA: Thank you.

9 SENATOR CRAVEN: Thank you very much.

10 MS. PINKINS: Thank you.

11 SENATOR CRAVEN: Is there anyone else who wishes to  
12 speak in support?

13 MR. DAVISON: My name is Edward Davison. I'm a  
14 correctional lieutenant, and I've known Bud Prunty for 13 years.

15 I'd like to thank Lozano for such a great speech. He  
16 stole mine.

17 [Laughter.]

18 MR. DAVISON: But two things that I really think  
19 about Bud is, he's sensitive and he's compassionate. And with  
20 the type of workforce that we have, those two elements are very,  
21 very important.

22 That's the gist of my speech, and I recommend  
23 confirmation of Mr. Prunty, of course.

24 SENATOR CRAVEN: Thank you very much, sir.

25 I think he may be both sensitive and compassionate,  
26 but I think he also has some very, very fine friends who have  
27 been very articulate and certainly very, very sincere in what  
28 they've said.





1           Anything further? Anyone in objection? There  
2 appears none.

3           SENATOR PETRIS: May I ask a question?

4           SENATOR CRAVEN: Sure, certainly, Senator Petris.

5           SENATOR PETRIS: I wanted to go into a couple of  
6 policy problems.

7           You said in answer to Senator Ayala's question, the  
8 worst problem is overcrowding. And you also mentioned something  
9 about alternative options other than incarceration.

10          Can you expand on that? Do you have some  
11 recommendations that we might consider?

12          MR. PRUNTY: Well, I think yes, I do.

13          There is an alternate sentencing program currently in  
14 place at San Quentin. It's a pilot project. That may or may  
15 not have any impact on it.

16          The Department has been pursuing for some time a  
17 program called the Structured Prison Environment. It's -- even  
18 though we currently base the incarceration and the privileges on  
19 demonstrated work ethic and effort, we have a ways to go in  
20 order to actually approximate the earning of privileges in its  
21 entirety.

22          The Structured Prison Environment makes the inmates  
23 responsible for everything that they earn, and certainly they  
24 are subject to losing those privileges if they -- if they  
25 misbehave or they do not perform their work assignments  
26 acceptably.

27          Those are things, I think, that the Department needs  
28 to move forward on, and I know that they are.



1           The other thing is that the educational programs  
2 provided in the Department are probably the -- the premier, I  
3 think, method in which we can ensure that they -- we do  
4 something positive with them while they're there, rather than  
5 have the population continue to increase with the -- with the  
6 parole failures. People need the skills to survive outside.  
7 The education system, I think, provides them with that.

8           SENATOR PETRIS: What can you do? You've got 65  
9 percent that are illiterate, or below fifth grade level.

10          MR. PRUNTY: Yes, sir, we do.

11          SENATOR PETRIS: What do you do about that?

12          MR. PRUNTY: Well, we're complying with the Stirling  
13 bill. We require that inmates be involved with the literacy  
14 programs. Our intention, of course, is to raise their literacy  
15 level to at least the ninth grade and provide a progressively  
16 large number of inmates with those expectations. Certainly  
17 that's a step in the right direction.

18          SENATOR PETRIS: Is that part of the consideration  
19 when somebody's recommended for parole?

20          MR. PRUNTY: No, sir, it is not.

21          We provide a variety of rehabilitative programs, but  
22 based upon the sentencing structure of the Department, inmates  
23 that are involved in work assignments and/or education  
24 assignments can work -- receive a day off their sentence for  
25 every day that they work. We do -- it does encourage inmates to  
26 become involved in the education system, and certainly we keep  
27 the vocational and academic assignments at the institution as  
28 filled to capacity as we can.





1           So, we do try to set the expectation that it will be  
2 -- that it's important for them to get those skills, but it's  
3 not specifically tied to early release, other than by  
4 participation in it.

5           SENATOR PETRIS: You get some kind of credit, I  
6 suppose?

7           MR. PRUNTY: Yes, they do.

8           SENATOR PETRIS: Now, is there a degree of  
9 improvement measured somewhere along the line within a certain  
10 time before the release?

11          MR. PRUNTY: In terms of their --

12          SENATOR PETRIS: Literacy.

13          MR. PRUNTY: Oh, yes. It's measured on an ongoing  
14 basis.

15          The education system routinely measures their  
16 progress into achieving that level of literacy that's required  
17 by the -- the legislation.

18          SENATOR PETRIS: Has that affected their recidivism  
19 rate at all?

20          MR. PRUNTY: If I told you I knew that, I'd be  
21 premature. I do not know.

22          SENATOR PETRIS: Maybe nobody knows yet.

23          MR. PRUNTY: I don't think anybody knows yet.

24          I certainly have a believe that in order to be  
25 effective out there, that -- and be successful on parole, that  
26 you need to be able to read, and write, and perform those basic  
27 survival skills that education provides you with.

28          SENATOR PETRIS: I guess we don't have any measure of



1 that. There have been a lot of studies on recidivism, but I  
2 don't know if any of them -- maybe Mr. Gomez can tell us.

3 MR. GOMEZ [FROM THE AUDIENCE]: There've been a  
4 tremendous number of studies on recidivism, but I think the best  
5 you can get out of the evaluations that have been done has been  
6 that if you get involved, or individually motivated, whether  
7 it's a drug treatment program, whether it's in education,  
8 whether it's in prison industries, your recidivism rate will go  
9 down.

10 To the extent that people are not involved, and most  
11 of them do not care to be involved, the propensity is to come  
12 back; it goes up.

13 I think the Federal Bureau has done a recidivism  
14 study on prison industries which shows the more you're involved  
15 in prison industries, the recidivism rate is reduced by about 5  
16 percent. I think in Florida they've done some evaluation on  
17 education.

18 But I think the intuitiveness in all of us is that if  
19 you have a basic education, you have a better chance. Your  
20 survival skill is clearly there.

21 We don't have good, longitudinal studies anywhere in  
22 the nation that says education can guarantee a reduction in  
23 recidivism, but everybody in their guts knows that if you can go  
24 from a second grade education coming in to a tenth grade  
25 education going out, you've got a lot better chance for  
26 survival.

27 SENATOR PETRIS: It seems to me if we measured it  
28 right at the end, and then keep track of them, or at least pick



1 them up when they come back -- I think if I were teaching the  
2 course and trying to get their literacy up, I'd have them read  
3 the Penal Code before they left. It should be a requirement.

4 MR. GOMEZ [FROM THE AUDIENCE]: Some of them know the  
5 Penal Code better than we do.

6 SENATOR PETRIS: They know it by heart?

7 Thank you.

8 SENATOR CRAVEN: Thank you.

9 No one else wishes to testify? All right, fine.

10 While you're coming up, let me read a letter. This  
11 is from Leon Ralph and Associates, who has the membership of the  
12 Association of Black Correctional Workers, and they have been  
13 advised of the meeting today. They send this message:

14 "Some of our members work with Mr.  
15 Prunty as employees of the Department of  
16 Corrections. He has demonstrated good  
17 leadership and helped to develop an  
18 environment of equity for both employees  
19 and inmates. Therefore, we respectfully  
20 request that you and the Members of the  
21 Senate Rules Committee recommend approval  
22 of his confirmation."

23 Signed,

24 "Sincerely, Leon D. Ralph."

25 So, that is another organization that is in support. Mr. Ralph  
26 is a gentleman that both Senator Petris and I -- I don't think  
27 Senator Ayala -- served with years ago.

28 Yes, sir, state your name, please.





1 MR. CARGILL: Yes, sir.

2 My name is Larry G. Cargill. I'm a correctional  
3 lieutenant at Sierra Conservation Center.

4 I am here as an officer of our institution's Sierra  
5 Conservation Center's Supervisor Coalition. The coalition was  
6 formed about January of 1992 to to upgrade the working  
7 conditions of the sergeant and lieutenant at Sierra Conservation  
8 Center, since this was prior to Mr. Prunty's arrival.

9 Subsequent to that, we have had an opportunity to  
10 have many, many dealing with Warden Prunty, of which it has  
11 inspired a lot of confidence and shown us that he has the  
12 ability to deal with our problems and concerns.

13 And our organization represents approximately 70  
14 percent of the sergeants and lieutenants at Sierra Conservation  
15 Center. I am here to say that our organization would highly  
16 recommend Mr. Prunty as a Warden. He has been a fine Warden up  
17 to this time, and I'm sure if he's confirmed, he will continue  
18 that.

19 SENATOR CRAVEN: Thank you, Lieutenant. We  
20 appreciate it.

21 Anyone else? There appears to be none.

22 SENATOR PETRIS: I asked you about incarceration, and  
23 you talked about education and training.

24 But I was looking for alternatives that you might  
25 have in mind, other than incarceration, that we might adopt.

26 You know, we have new prisons that we can't even use  
27 because we don't have the money to staff them. We're up against  
28 a big crunch, and if we could reduce the prison population in



1 some other satisfactory method, it might help us in several  
2 different ways.

3 Is there anything you had in mind when you talked  
4 about incarceration alternatives?

5 MR. PRUNTY: No, other than the fact that, as Mr.  
6 Gomez mentioned, they need to be involved in programs and  
7 getting their commitment to be involved in those programs, other  
8 than just to go through the motions, is really the challenge  
9 that is to the correctional employees.

10 All the rehabilitative programs we provide, unless we  
11 find that mechanism that --

12 SENATOR PETRIS: What about not being in prison at  
13 all, being somewhere else, in some other kind of monitored or  
14 controlled setting?

15 MR. PRUNTY: Well, when you think about 50 percent of  
16 the inmate population is in for violent offenses, I'm not sure  
17 that I would recommend that as being a viable alternative.

18 I think maybe --

19 SENATOR PETRIS: Well, that still leaves 50 percent.  
20 There's an awful lot of nonviolent folks in prison, and a lot of  
21 them get sent back on technical violations. We have a very high  
22 percentage of people who have returned on, you know, technical  
23 violations of the parole.

24 So, I grant you, we've got the violent ones. What  
25 about the nonviolent ones?

26 MR. PRUNTY: Let me speak to the issue of the  
27 technical violations.

28 I think at one time we had a higher, a much higher,





1 rate of technical violations than we currently do, and that's  
2 the result of Mr. Gomez's policies, I think, to really take a  
3 look at why we're bringing inmates back to prison, and see if we  
4 can't maintain them out on parole and make them more successful.

5 SENATOR PETRIS: Of course, your shop doesn't bring  
6 them back. Somebody else brings them back, so he's stuck with  
7 them.

8 But he's saying, the decision to bring them back is  
9 not made by the Department of Corrections.

10 MR. PRUNTY: Not entirely true. A technical  
11 violation is a violation of conditions of parole. It doesn't  
12 necessarily mean they have a new criminal offense. Our own  
13 parole --

14 SENATOR PETRIS: But you've got a parole officer who  
15 doesn't work in the prison. He's outside somewhere; isn't he?

16 MR. PRUNTY: True, but he's still part of the  
17 Department of Corrections.

18 SENATOR PETRIS: Well, yes, all right. I meant, he's  
19 not part of inside the walls. I know they work for Mr. Gomez.

20 MR. PRUNTY: I think we're all working in the same  
21 direction with that.

22 I can say this, that I think that there is some real  
23 value in meaningful hard work. I think that challenging inmates  
24 and expecting that would work very hard inside the prison, in a  
25 humane manner, make them produce something valuable, they  
26 develop self-esteem. I think we could probably keep them in  
27 prison a shorter period of time and have a higher degree of  
28 success on parole.



1           SENATOR PETRIS: Keeping them less time within and  
2 more time outside.

3           MR. PRUNTY: Yes, but with a higher expectation for  
4 good hard work inside.

5           SENATOR PETRIS: Can you describe some of those  
6 programs that are in operation now?

7           MR. PRUNTY: Yes, in my institution?

8           SENATOR PETRIS: Yes.

9           MR. PRUNTY: Certainly. Give me the opportunity to  
10 talk to you about the conservation camps. That is probably the  
11 best thing this Department does.

12           We -- the --

13           SENATOR PETRIS: That's been my impression for a long  
14 time.

15           MR. PRUNTY: It is; it is.

16           We have approximately 2200 inmates just in the 20  
17 camps that Sierra Conservation Center administers. And of  
18 course, Susanville has another facility similar to mine that  
19 operates another 18 camps.

20           That program is jointly operated by the Department of  
21 Corrections and the Department of Forestry. Nowhere in any  
22 other program that I have had the opportunity to observe -- and  
23 I've seen many in this Department -- do you see the level of  
24 self-esteem and discipline that is developed in the inmate  
25 workers that are going through the camp training program. They  
26 see some real value in what they do. Their self-esteem  
27 improves. We have relatively few problems in the conservation  
28 camps because of it.



1           SENATOR PETRIS: What does the inmate have to do to  
2 qualify to go into the camp? Does he have to make points in his  
3 conduct somewhere along the line?

4           MR. PRUNTY: Somewhere along the line, because he has  
5 to be eligible for minimum security, and that has something to  
6 do with his classification score. Basically nonviolent in  
7 nature; although we screen every case very closely.

8           They to be on good behavior inmates. They have to  
9 earn their way into the Forestry training program and have to  
10 participate in a physical training program before being cleared  
11 to go outside the fence and work to learn the forestry and  
12 firefighting skills preliminarily to being assigned to a  
13 conservation camp.

14          SENATOR PETRIS: Do any of them get employed in those  
15 departments afterward, or in those functions as firefighting?

16          MR. PRUNTY: I don't have good figures for you; I do  
17 not.

18          Let me mention another one, however. There are some  
19 programs that I became familiar with at Donovan Correctional  
20 facility, and that is through the inmate community service  
21 crews. Specifically, they had an arrangement, a contract, with  
22 the San Diego Trolley to employ inmates, inmate workers, to  
23 maintain the trolley system. And there was a concerted effort  
24 by the employer and the institution to place inmates. As they  
25 learned the skills and developed a work ethic, they actually  
26 hired them as employees of the San Diego Trolley system in fair  
27 numbers.

28          SENATOR PETRIS: It seems to me at one time there was





1 a prohibition on any municipality hiring felons or ex-felons. I  
2 know it's true in law enforcement.

3 MR. PRUNTY: That is true.

4 SENATOR PETRIS: I thought it extended to any  
5 municipal job.

6 You apparently got that waived or suspended or --

7 MR. PRUNTY: Well, the arrangement is that they are  
8 able to do that, yes, sir. And the Department has had some  
9 examples where we have hired some ex-felons.

10 SENATOR PETRIS: How many are involved in the San  
11 Diego situation that are working?

12 MR. PRUNTY: Inmate workers?

13 SENATOR PETRIS: Yes.

14 MR. PRUNTY: Oh, I would think now they have about  
15 six community service crews, eight to ten inmates apiece.  
16 Upwards of sixty.

17 SENATOR PETRIS: How long has that been going on?

18 MR. PRUNTY: Oh, from the time I got there, I'd say  
19 four or five years.

20 SENATOR PETRIS: And was that expanded from a smaller  
21 number?

22 MR. PRUNTY: Yes.

23 SENATOR PETRIS: Is it growing?

24 MR. PRUNTY: It began with one crew. As the  
25 relationship developed, and the value of that cooperative  
26 arrangement became apparent, yes, it did expand.

27 SENATOR PETRIS: Do you anticipate further expansion?

28 MR. PRUNTY: To the degree they can, yes. We are



1 providing -- they're providing a high level of inmate job  
2 assignments now. We do maintain the buses, the trolley stations  
3 themselves. I think pretty much right now, that is fairly  
4 staffed to the degree that they can.

5 SENATOR PETRIS: Thank you.

6 SENATOR CRAVEN: Very good.

7 Did you have something?

8 SENATOR AYALA: I'd like to move the confirmation of  
9 Mr. Kingston W. Prunty, Jr., Warden of the Sierra Conservation  
10 Center.

11 SENATOR CRAVEN: Very well, call the roll.

12 SECRETARY WEBB: Senator Ayala.

13 SENATOR AYALA: Aye.

14 SECRETARY WEBB: Ayala Aye. Senator Beverly.  
15 Senator Petris.

16 SENATOR PETRIS: Aye.

17 SECRETARY WEBB: Petris Aye. Senator Craven.

18 SENATOR CRAVEN: Aye.

19 SECRETARY WEBB: Craven Aye. Senator Roberti.

20 The vote is three to zero.

21 SENATOR CRAVEN: Very good. Thank you very much,  
22 sir.

23 Next we have John Seymour, Executive Director,  
24 California Housing Finance Agency.

25 I don't think that this gentleman needs too much  
26 introduction or to tell us who he is or what he can do, but if  
27 you have some remarks, Senator Seymour, please go ahead.

28 SENATOR SEYMOUR: Thank you, Mr. Chairman, Members of





1 the Committee. It's good to be back in this room.

2 I had suggested to one of the sergeants when I came  
3 in, little did I know some day I'd be back here in this capacity  
4 in this room.

5 I'd really like to suggest, in listening to the  
6 nominees that preceded me, at least one nominee made reference  
7 to his service in the Marine Corps as well as Little League, as  
8 I recall. And I'm mindful, Mr. Chairman, of your accurate  
9 portrayal of the former Marines now serving on this Committee.

10 I wanted you to know that I'm a former Marine.

11 [Laughter.]

12 SENATOR SEYMOUR: On the other hand, having to do  
13 with housing, I'd have to admit, Mr. Chairman, that the housing  
14 I experienced in the Marine Corps was far less than adequate,  
15 and I would hope to, as the Director of CHFA, to improve upon  
16 that.

17 In a serious vein, Mr. Chairman, I'd be happy to  
18 answer any questions of the Committee, of course, but in a  
19 serious vein, it had been my observation that CHFA as an agency,  
20 the California Housing Finance Agency, as I viewed it the eight  
21 years that I served in this august body, they did a good job.  
22 They were well managed. But for my part, I wasn't, as a State  
23 Senator, anyhow, a Member of this body, I was not satisfied with  
24 the volume of business that they did; with what appeared to me  
25 to be a less than aggressive effort in various markets  
26 throughout the state.

27 And so, it would be my hope that as the director of  
28 this agency, I might be able to offer some leadership to in fact



1 have it a much more aggressive agency, and have an agency that  
2 does its very best to ensure outreach to every part of this  
3 state.

4 SENATOR CRAVEN: Thank you, John.

5 SENATOR PETRIS: I'm very happy to see Senator  
6 Seymour here and hear the comment. He and I worked together on  
7 some housing things. In fact, he helped me bail out a program  
8 of mine a couple of times when I couldn't get any money out of  
9 the Governor, and he got it. So, I'm still grateful for that.

10 SENATOR SEYMOUR: I wish there were some money around  
11 now to get, Senator Petris.

12 SENATOR PETRIS: There isn't any now; that's right.  
13 The self-help program in particular.

14 By way of background, I want to point out that there  
15 are two or three problem areas I want to ask you about.

16 When this statute was originally enacted, I was one  
17 of the original authors. It was principally Senator Zenovich,  
18 but I had a separate bill and we kind of merged them, and the  
19 emphasis was low-income housing, and then moderate, and then the  
20 rest.

21 And after it got started, and the board was appointed  
22 by Governor Jerry Brown, I saw a series of decisions that dumped  
23 all the money upward, and hardly gave anything in the area of  
24 helping the poor. I was so outraged, I called the group and  
25 asked if I could meet with them. And I confronted them. I  
26 said, "What's this? Read the statute." You know, I think we  
27 have something here where the primary purpose is to meet the  
28 housing needs of persons and families of low and moderate



1 income. That's the core of the statute.

2 And they were being totally ignored in Jerry Brown's  
3 administration in its first few months. Of course, they did  
4 improve on that and change it.

5 But now we find that only 11 percent of all the loans  
6 or money that are being spent by that agency are going to this  
7 primary target, the lower income.

8 Another thing they did in the beginning which I  
9 thought was not serving the purpose of the statute is, instead  
10 of developing new housing for the poor, they were providing  
11 loans for a higher level to buy existing housing. That didn't  
12 increase our housing stock at all. They just bought the stuff  
13 that's out there, and they were supposed to develop programs for  
14 new units more and more.

15 Now, I'm told now that -- this is what I wanted you  
16 to comment on -- we had a Legislative Analyst report a couple  
17 years ago that found that only 11 percent of the beneficiaries  
18 of the CHFA loans were low-income households, as defined by the  
19 statute.

20 So, I'd like to know what your reaction is to that,  
21 and what you are doing, or hoping to do, to correct that.

22 Secondly, the agency's been criticized, as it was  
23 then, for allocating nearly all of its loans for the production  
24 of single-family housing rather than multiple. Now, that's gone  
25 back and forth. There were periods when multiple housing got  
26 more. But they seem to be drifting back to those who can afford  
27 the single-family housing, and the multiple dwellings are being  
28 given a secondary or maybe third or fourth position.





1           So, starting with the 11 percent, can you comment on  
2 that from what you've learned -- I know you've been there a  
3 short time -- as to whether that represents carrying out of the  
4 mission or not, and what your reaction and plans would be to  
5 correct it.

6           SENATOR SEYMOUR: Well, Senator Petris, first of all,  
7 let me try to go to the bottom line, so to speak. My attitude,  
8 as I said earlier, is to have a much more aggressive agency.  
9 Aggressive in the functions that it has provided -- the housing  
10 that it has provided.

11           To the degree that we can utilize the assets of CHFA  
12 in such a way to become more aggressive in ensuring just low,  
13 not moderate or affordable, I want to do that.

14           Let me, however, exercise a word of caution. CHFA  
15 was set up by the Legislature, as you know because you were a  
16 leader and in the forefront in the creation of this agency, it  
17 was set up as an agency to not be a drain on the General Fund,  
18 in essence, and it isn't. CHFA is self-supporting, as you know.

19           In that process, therefore, if we're going to  
20 continue to be a self-supporting agency and not dependent upon  
21 the General Fund for funding, then in fact when it comes to  
22 subsidy -- and that's the easiest way, as you know, Senator  
23 Petris, the easiest way to help those families and individuals  
24 who area in the low-income categories, is a direct subsidy of  
25 their rent or purchase. To the degree that CHFA were to too  
26 aggressively pursue that agenda at the expense of the part of  
27 the agenda that does return if you call it profit -- it's not  
28 profit, but reserves -- to the agency, to the degree we do it at



1 the expense of that, we'd be back here for money. I don't want  
2 to see that happen in the agency.

3 On the other hand, having said that, let me, if I  
4 can, explain how I see the agency becoming more aggressive.

5 First of all, I want to be and I want to put the  
6 agency's energy in strong support of a G.O. bond issue. You're  
7 going to be part of that, the other Members of the Senate, the  
8 Governor, the Assembly will be part of sizing that housing bond  
9 issue. And hopefully, supporting it with the electorate.

10 That will revenues to which -- which can be used in  
11 more subsidies. So, that's point number one.

12 Point number two, if we could identify some other  
13 source of revenue, ongoing revenue, the agency could do even  
14 more aggressive job than I'd like to see it doing. But without  
15 additional source of revenue, we are reliant on the reserves  
16 that were initially appropriated by the Legislature and that  
17 have been enhanced by primarily the end of the portfolio that  
18 produces reserves.

19 Thirdly, however, let me say, Senator Petris, that I  
20 think we have the opportunity, and I've been meeting with  
21 various nonprofit housing groups since I came on board, to  
22 explore ways in which we can, in fact, be more aggressive. And  
23 it seems to me what I'm hearing from them is the way we can do  
24 that is, we have to work more closely with local housing  
25 authorities and agencies that have some source of revenue, one  
26 of which you're very familiar and every Member of this Committee  
27 is familiar, I'm speaking specifically of the set-aside monies  
28 in redevelopment agencies as a result of tax increment. Those





1 dollars can in fact provide that kind of subsidy and help make a  
2 project -- help bring it into a reality.

3 So, I guess what I'm saying, in word, is, I want to  
4 take a much more aggressive posture, but mindful that this  
5 agency has got to be run in such a way that it is  
6 self-sufficient.

7 SENATOR PETRIS: We also have a partnership with the  
8 private, both profit and nonprofit.

9 SENATOR SEYMOUR: Yes. I have met with that  
10 partnership, and I know you were -- you were part of leading in  
11 that legislation. I joined you in doing that.

12 SENATOR PETRIS: Yes, you were helpful.

13 SENATOR SEYMOUR: I've already met with them, and  
14 they have promised to play a continuing role with me to try to  
15 achieve the objective.

16 SENATOR PETRIS: Two other areas; one is gender. As  
17 we all know in reviewing the statistics on poverty, a growing  
18 number of people who are becoming dependent on help are women  
19 with children, single parents with children. They're having  
20 difficulty getting into some of the programs.

21 The second is geographic. A large percentage, I  
22 think 25 or more, in the immediate -- your immediate  
23 predecessor, were granted in certain parts of the Valley from  
24 Sacramento to Fresno, closer to Fresno. Which in part is  
25 understandable, because the director was from Fresno, and he  
26 wanted to beef up the stock in his county, and I commended him  
27 for that, but it seemed to be an imbalance.

28 I worked closely with him on a lot of things, and I



1 thought he did a good job, too. I think you're right.

2 I think we need to look beyond the figures, which I  
3 think were 25 percent for that area. And I'm going to do the  
4 same thing he did by pointing out that, well, Alameda County was  
5 about 2 percent. So, I guess I'm making a pitch for Alameda  
6 County, which puts me in the same boat as the prior director in  
7 trying to help my home county.

8 Anyway, it was clearly a disproportionate amount.  
9 Let's see if I can get the correct figures so I'm not misleading  
10 you. It said between 1983 and 1989, Sacramento and Fresno  
11 received almost 25 percent of all loans. That's the two areas.  
12 While L.A. and Alameda together received about 11, and I think  
13 Alameda's portion of the 11 was very small.

14 So, I would like you to examine a better proportional  
15 allocation of those loans on a geographic basis as well as the  
16 income basis.

17 Now, I don't think you're going to have the same  
18 problem, since your home base is Orange County, and there aren't  
19 too many poor folk there that need low-income housing.

20 SENATOR SEYMOUR: To the contrary, there are.

21 SENATOR PETRIS: We're glad to accept your portion of  
22 the allocation. I know there are some, but in comparison to  
23 Alameda County, for example, and some of the others.

24 Well, anyway, those are the areas of my concern.  
25 Beyond that, Mr. Chairman, as I say, Senator Seymour came to the  
26 Senate with a reputation of being a very tough-minded  
27 conservative businessman who was Chairman of the whole  
28 California Real Estate Association, and had done a lot of work



1 in that field, and he wasn't too friendly to the low-income  
2 housing programs.

3 But I found him to be different. Now, he either  
4 changed, which is to his great credit, or he felt that way all  
5 along. But he was very helpful to me in some of my key efforts,  
6 one or two of which I mentioned, and was responsible for getting  
7 the funds for one or two of the programs that would have died  
8 out.

9 So, I know where his heart is. I know that in spite  
10 of the prior reputation for tilting, you know, toward all the  
11 commercial stuff, and upper-income and middle-income, he really  
12 has a concern for people at the bottom end of the scale.

13 So, I feel very comfortable seeing him in this  
14 position.

15 SENATOR CRAVEN: It's nice to hear that.

16 Sometimes, as we all know, those of us fortunate  
17 enough to serve in this medium, we get type-cast at times, not  
18 necessarily correctly always.

19 My experience with Senator Seymour is somewhat  
20 similar to your own, in that I followed on some of the things  
21 that he did before me, but the thing that always impressed me  
22 was, he was, in effect, a man of the people. He was not a  
23 person who was holding on to the coattails of his party, at  
24 least in my judgment. He was quite independent in what he said,  
25 having served in the Caucus with him for a long time, and he  
26 having been my Caucus Chairman for many years. He was a great  
27 pragmatist, I thought.

28 Now, I think that's one of the best ways in the world





1 to solve problems, instead of being so, you know, cast in  
2 cement.

3 So, I think I've made up my mind I'm probably going  
4 to vote for him.

5 [Laughter.]

6 SENATOR CRAVEN: How about you, Ruben?

7 SENATOR AYALA: Well, having heard you say all those  
8 good things, I don't have any questions.

9 SENATOR CRAVEN: That's fine. You don't have to have  
10 any.

11 SENATOR AYALA: I have one question, Senator Seymour.

12 As you well know, the OPR did not suggest a specific  
13 funding source for the infrastructure of grants that the new  
14 authority would provide on the matching funds to local agencies.

15 Do you support efforts to provide a startup fund for  
16 the infrastructure bank from a statewide bond issue?

17 SENATOR SEYMOUR: Yes, I do. And further, let me  
18 add, Senator Ayala, that I think that the personnel in  
19 functional infrastructure to run such a program resides in the  
20 California Housing Finance Agency.

21 SENATOR AYALA: Do you think that the local agencies  
22 who are experiencing a tremendous growth factor, like my area  
23 that I represent, should have the authority to ask the voters to  
24 approve bond measures by a majority vote?

25 SENATOR SEYMOUR: Yes, I do.

26 SENATOR AYALA: That's the only question I have, Mr.  
27 Chairman.

28 SENATOR CRAVEN: Very well, thank you.



1           SENATOR PETRIS: I have one more.

2           SENATOR CRAVEN: Yes, Senator Petris.

3           SENATOR PETRIS: Where does an Army man go in the  
4 midst of all these Marines?

5           SENATOR CRAVEN: Well, we're just delightful [sic] to  
6 have you here, Senator Petris. We know of your career in the  
7 United States Army as one of its officers, and we're very happy  
8 to have you here.

9           SENATOR PETRIS: Thank you.

10          SENATOR CRAVEN: No one wishes to comment in either  
11 direction back there in the audience?

12          I don't think we really need to call in more  
13 sergeants today because the audience, you could probably control  
14 that group there, I should think, one each.

15          All right, I'm ready to entertain a motion.

16          SENATOR PETRIS: Move.

17          SENATOR CRAVEN: Senator Petris tenders.

18          Call the roll, please.

19          SECRETARY WEBB: Senator Ayala.

20          SENATOR AYALA: Aye.

21          SECRETARY WEBB: Ayala Aye. Senator Beverly.  
22 Senator Petris.

23          SENATOR PETRIS: Aye.

24          SECRETARY WEBB: Petris Aye. Senator Craven.

25          SENATOR CRAVEN: Aye.

26          SECRETARY WEBB: Craven Aye. Senator Roberti.

27          The vote is three to zero.

28          SENATOR CRAVEN: John, your nomination is out. We're





1 just sorry that we don't have our two colleagues with us to make  
2 it five-zero.

3 SENATOR SEYMOUR: Mr. Chairman, thank you.

4 And might I compliment, Mr. Chairman, your  
5 Appointments Consultant. Nancy Michel has done a superb job,  
6 very professional, in keeping me informed of the process as  
7 we've gone along. I just wanted you to know that.

8 SENATOR CRAVEN: Thank you, we appreciate those  
9 comments, and we certainly agree with you. A very, very  
10 difficult job, and one where, unfortunately, she can stand by  
11 and take some abuse, which is probably not well directed at her,  
12 more probably at some of us, but she smiles through it all.

13 But we appreciate your saying that and we  
14 congratulate you both.

15 [Thereupon this portion of the  
16 Senate Rules Committee hearing  
17 was terminated at approximately  
18 3:32 P.M.]

19 --oo0oo--  
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I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 15<sup>th</sup> day of March, 1993.

  
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SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR RUBEN AYALA

SENATOR ROBERT BEVERLY

MEMBERS ABSENT

SENATOR DAVID ROBERTI, Chair

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

TANDY K. BOZEMAN, Adjutant General  
State Military Forces  
State of California

ED CONNOLLY, Journalist  
Palo Alto

DAN GALPERN  
Davis



INDEXPage

Proceedings . . . . .	1
<u>Governor's Appointees:</u>	
TANDY K. BOZEMAN, Adjutant General State Military Forces State of California . . . . .	1
Background and Experience . . . . .	1
<u>Witnesses with Concerns:</u>	
ED CONNOLLY, Journalist Palo Alto . . . . .	2
Role of State Military Reserve . . . . .	2
State Military Reserve in Los Angeles Riot . . .	3
Inability to Control Activities of State Military Reserve . . . . .	4
Role in Oakland Hills Fire . . . . .	4
Statements by SENATOR CRAVEN re:	
GENERAL BOZEMAN's Willingness to Review Role and Mission of State Military Reserve . . . . .	4
DAN GALPERN Davis . . . . .	6
No Funding for National Guard to Monitor State Military Reserve . . . . .	7
Questions by SENATOR AYALA re:	
Preparedness of National Guard to Respond to Future Acts of Civil Disobedience . . . . .	8
Coordination of Efforts with Local Authorities . . . . .	9
Comments by SENATOR CRAVEN re:	
Marine Corps . . . . .	10
Motion to Confirm . . . . .	11



INDEX (Continued)

Intention to Hold Roll Open for SENATOR PETRIS . . . . .	11
Committee Action . . . . .	11
Termination of Proceedings . . . . .	11
Certificate of Reporter . . . . .	12





P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

SENATOR CRAVEN: We will go to Governor's appointee appearing today. This is Tandy K. Bozeman, Adjutant General, State Military Forces, State of California.

General, if you would, please, come up, be seated. This sounds rather oxymoronic, but I was going to say to you, tell us why you feel you're qualified. It's hard to tell that to a Major General.

In this instance, it is really an idea or a thought that occurs to us that we'd like to know how you feel about this, and what portions of your background you'd care to tell us about.

GENERAL BOZEMAN: Well, sir, after six years on active duty with the Air Force, I've been in the National Guard since 1970. I think most of you are familiar with my background.

In the National Guard, I've had a succession of positions of increasing responsibility. I was for almost four years the Base Commander. That is, the executive manager of one of the largest international Guard bases in the United States, which subsumed 13 different functions, which varied from a medical facility to civil engineering. I was a Wing Commander at the same facility. I was the Commander of the Air National Guard, and most recently I've been serving as the Adjutant General, which all sum is nine years of executive direct command experience.

SENATOR CRAVEN: Very well.



1 Are there any questions of the Committee at this  
2 juncture?

3 Is there anyone in the audience that would like to  
4 speak relative to this confirmation?

5 This gentleman introduced himself earlier, so I know  
6 this is Mr. Connolly.

7 MR. CONNOLLY: Right.

8 SENATOR CRAVEN: Mr. Connolly, my gracious. I hope  
9 you're not going to go through that whole book.

10 MR. CONNOLLY: Oh, I feel more secure having  
11 documents with me.

12 SENATOR CRAVEN: Very well.

13 MR. CONNOLLY: I appreciate the Committee's time.

14 I wish General Bozeman the best in this new position.  
15 He has an impressive resume. We're not acquainted.

16 But the reason I wanted to appear before you is to  
17 ask a few questions, because General Bozeman would be  
18 responsible not only for the National Guard, but for a little  
19 known volunteer civilian militia the state maintains that has  
20 proved to be a great deal of trouble, for which the state, in my  
21 estimation, no longer has any need. Many Legislators aren't  
22 even aware that California maintains and sanctions a volunteer  
23 militia which is organized as a replacement for the  
24 26,000-member California National Guard.

25 I wanted to ask General Bozeman what he anticipates  
26 the role of the State Military Reserve to be?

27 GENERAL BOZEMAN: Well, I have to tell you honestly,  
28 is that the State Military Reserve has not been the primary





1 focus of what I've done in the last 90 days.

2 But I do know and would agree that I think the roles  
3 and missions of the State Military Reserve do need to be  
4 reviewed. Its charter is to replace the National Guard if the  
5 National Guard were en mass mobilized. I think that's an  
6 unlikely possibility.

7 And I would agree with you that I need to review that  
8 and to examine the roles and missions, and I intend to do that.

9 MR. CONNOLLY: I'm happy to hear you say that. We  
10 talked briefly before the meeting, and apparently a lot of the  
11 episodes that have been reported about the SMR, you're not aware  
12 of.

13 But for example, the -- your predecessor, General  
14 Thrasher, as a result of the requirements mandated by the budget  
15 fiscal committees, quarterly reports or reported on the  
16 activities of the State Military Reserve because of  
17 controversies that were raised before the Legislature in the  
18 past. And in his most recent report in July of last year -- at  
19 least, that's the most recent that I have -- he pointed out that  
20 units of the State Military Reserve, this unpaid, volunteer  
21 militia, showed up spontaneously in BDUs -- that's battle dress  
22 uniform -- without the authority nor knowledge of the Adjutant  
23 General's Office, to participate in the Los Angeles Riots.

24 Not only that, but an internal State Military Reserve  
25 report submitted to the Adjutant General's Office after the  
26 Riots indicated that a television station had filmed a member of  
27 the State Military Reserve preparing to go out on patrol with  
28 the National Guard, and that he was armed.



1           And this comes four years after the Ways and Means  
2 Subcommittee heard testimony from General Bozeman's predecessor  
3 that he would apply very strict controls and very tight  
4 oversight to this militia. And I believe he had every intention  
5 of doing that. He assigned somebody who was thoroughly capable  
6 to supervise this militia, which was a paid position in the  
7 Adjutant General's department. And even that person, who was  
8 highly competent, was entirely unable to control the activities  
9 of this militia, which have ranged from unauthorized war games  
10 in national forests, riot exercises, advertisements for recruits  
11 in survivalist magazines. And the Military Department has been  
12 stymied at every juncture by the command of this state militia.

13           They've -- officers showed up in a jeep in the  
14 Oakland Hills the day after the big Oakland blaze, dressed,  
15 again, in camouflage gear. They, by chance, were encountered by  
16 a reporter from the Examiner, and they identified themselves as  
17 regular Army officers. And the man in the jeep, a Captain  
18 Barnes, was quoted on the front page of the Examiner, and  
19 somebody happened to notice that this guy had absolutely nothing  
20 to do with the regular military and was there on a  
21 reconnaissance mission with the State Military Reserve.

22           SENATOR CRAVEN: If I may, Mr. Connolly, I don't  
23 doubt what you say is absolutely correct. I understand your  
24 concern.

25           But I think that the General has answered your  
26 question basically that he would review that which has concerned  
27 you, and perhaps rightfully so, and that he feels concerned  
28 enough to do just that.



1 Am I correct in that?

2 GENERAL BOZEMAN: Yes, sir.

3 We, in fact, are going to get together within the  
4 next two weeks to discuss that in some detail, which I look  
5 forward to.

6 SENATOR CRAVEN: Would that be all right, Mr.  
7 Connolly?

8 MR. CONNOLLY: I look forward to resolving this with  
9 the Adjutant General.

10 SENATOR CRAVEN: You know, there are -- I've often  
11 thought about the people who wear camouflage gear and go out in  
12 the woods, and they shoot paint at each other. I suppose that  
13 they enjoy that very much, and I'm, I guess, in no position to  
14 criticize them. I'm not intending to do so.

15 But having had enough people shoot at me with  
16 something other than paint, I am not anxious to do that.

17 But sometimes you get a type of person who would like  
18 to be involved with that; may not have the opportunity to enlist  
19 in the service and experience that first-hand, and it means a  
20 great deal to them.

21 So, you know, you can't be critical of them, and I'm  
22 not. But you have different types of people, and they assume  
23 various roles, either vicariously or physically.

24 MR. CONNOLLY: No one would have a problem with that,  
25 provided it's not done under state sanction.

26 SENATOR CRAVEN: That's true. Well, of course, as  
27 the General has said, that wasn't done under state sanction.  
28 I'm sure General Thrasher said the same thing at that.





1 But sometimes people have a tendency to take those  
2 things unto themselves, and it is also, at times, hard to  
3 control that, I suppose.

4 Would you say that you could get a complete lock on  
5 all of the people who are associated with the Guard or its  
6 ancillary organizations?

7 GENERAL BOZEMAN: I would like to think so, sir.

8 SENATOR CRAVEN: Thank you. You would like to think  
9 so, and I think it would be very, very difficult to make assured  
10 the fact, you know, somebody's not going to be a, you know --  
11 what would I say -- a rugged individualist -- those are the  
12 words I'm looking for -- and may take off.

13 Those are the things we hope to control, because I'm  
14 sure it's an anathema to good order and discipline. And those  
15 are terms I'm sure you've heard before, but I think they're  
16 appropriate.

17 So, anything further that you would like to say or  
18 add?

19 MR. GALPERN: Mr. Chairman and Senators, my name is  
20 Dan Galpern, and I have investigated this issue as a colleague  
21 of Ed Connolly's as well for the past three years. And I  
22 largely share his views on this.

23 I would just like to add that I personally don't have  
24 much of a problem, although I have some problem, with people  
25 wanting to play survivalist games and so forth. But under the  
26 imprimatur of the state sanction of the State Military Reserve,  
27 I think it's highly inappropriate.

28 The Legislature, in fact, last year zeroed out the



1 funding for this unit. And so, there is now no funding for the  
2 National Guard to be monitoring these activities. I believe  
3 these activities need not exist. I don't think it helps the  
4 National Guard in any way.

5 And I would like to work with the Adjutant General,  
6 whom, I believe, is of course extremely well qualified, as Ed  
7 Connolly, to figure out some piece of legislation to entirely  
8 eliminate this unit from the books.

9 So, I look forward to working with you as well.

10 SENATOR CRAVEN: Senator Ayala.

11 SENATOR AYALA: It's been established that the  
12 General will review that program --

13 SENATOR CRAVEN: Yes.

14 SENATOR AYALA: -- and make a recommendation to the  
15 Legislature in terms -- I didn't even know it existed, to be  
16 frank with you.

17 MR. GALPERN: Most people don't.

18 SENATOR AYALA: It was something new to me.

19 SENATOR CRAVEN: I think we should make the point, at  
20 least I hope that I'm correct in this, that none of that  
21 activity to which you have referred was done under the aegis of  
22 the Guard itself. Am I correct in assuming that, General  
23 Bozeman?

24 GENERAL BOZEMAN: Certainly not arriving with  
25 weapons, and not to my knowledge.

26 SENATOR CRAVEN: Yes. Well, that would be the point  
27 that I wanted to make.

28 I think they've done this on their own, and they may





1 well have been associated with the militia, as Mr. Connolly  
2 referred to it. And I'm not saying that that's not correct at  
3 all.

4 I interrupted you. You had some other comment?

5 MR. GALPERN: Not at all. I agree with your  
6 comments, and I'm done.

7 Thank you very much.

8 SENATOR CRAVEN: Where are you gentlemen from, what  
9 part of the state?

10 MR. CONNOLLY: I'm a journalist from Palo Alto.

11 MR. GALPERN: I'm from Davis.

12 SENATOR CRAVEN: Fine, very good. Well, it's nice to  
13 have you here, and appreciate you coming in and your testimony  
14 as well.

15 Is there anyone else who wishes to speak? Senator  
16 Ayala.

17 SENATOR AYALA: General, we've been hearing about the  
18 preparedness. We hope that it's not necessary, but civil  
19 problems, disobedience, might happen in Los Angeles as a result  
20 of the trials taking place now.

21 There was a lot of criticism of the National Guard,  
22 how they conducted themselves in terms of responding when they  
23 did, and lack of ammunition, that sort of thing.

24 Can you give us a progress report, and not into  
25 detail to give away our plans, but are we doing something to  
26 beef up that type of a problem so that we don't lose control, or  
27 as little as possible, if, Heaven forbid, something like that  
28 happened again?



1           GENERAL BOZEMAN: Yes, sir.

2           We have been intensely busy over the last several  
3 months. We have been doing civil disturbance planning. We have  
4 taken and devised detailed plans for four metropolitan areas.  
5 We've assigned senior command responsibility to each  
6 metropolitan area, and we've published and distributed the  
7 plans.

8           We have --

9           SENATOR AYALA: And you're coordinating your efforts  
10 with the local authorities?

11          GENERAL BOZEMAN: Yes, sir. We are in constant  
12 communication, and in fact, the 40th Division meets weekly with  
13 the Los Angeles Sheriff's Department and the Los Angeles Police  
14 Department.

15          SENATOR AYALA: Not only the Los Angeles area. This  
16 could explode anywhere in the state, you know.

17          GENERAL BOZEMAN: Yes, sir.

18          SENATOR AYALA: We've got to --

19          GENERAL BOZEMAN: And we have contingency plans for  
20 four major metropolitan areas in California, and can, in fact,  
21 adjust, if it happens elsewhere. We have solved the logistical  
22 problems of the distribution of ammunition.

23          Suffice it to say, sir, I can assure you, if there's  
24 a disturbance, there will be weapons and ammunitions when and  
25 where they're needed.

26          We also have devised a crisis action team that in  
27 fact is capable of command and control of the National Guard,  
28 and tracking convoy movements so that it can be redirected, even



1 to such details as we've fielded an HC 130 with the capability  
2 of relaying radio traffic from -- directly from the convoy to  
3 our State Headquarters.

4           SENATOR CRAVEN: It would appear that all the  
5 contingencies have been addressed, and that they are down on  
6 paper and mentally as well, I suppose, which is a commander's  
7 responsibility. And I think it's all been addressed very, very  
8 well. At least, that would be my impression.

9           General, you have to excuse us here, but you're  
10 dealing with three Marines: Ayala, Beverly, and myself.

11           SENATOR BEVERLY: How does he feel about the Corps?

12                           [Laughter.]

13           SENATOR CRAVEN: Better come up with the right answer  
14 now.

15           GENERAL BOZEMAN: Don't accuse me of being a  
16 diplomat, but I will tell you, there is no one in uniform who  
17 does not respect the Corps, and I'll tell you that after this  
18 hearing.

19           SENATOR CRAVEN: Thank you very much. I knew you  
20 were a great man when you walked in here.

21                           [Laughter.]

22           GENERAL BOZEMAN: You can quote me.

23           SENATOR CRAVEN: It is a relief, I think, to have a  
24 person who is so well-versed, who has the background necessary,  
25 and who seemingly, through the planning offices of his staff,  
26 and those officers and enlisted persons involved, is really  
27 right up to the moment on what we're dealing with from the  
28 standpoint of the Guard. That's impressive to me.





1 I think if Senator Petris were here with us --  
2 Senator Petris will be here a little later -- but he's a  
3 soldier, Senator Petris, or he has been a soldier, and I think  
4 he would be in agreement.

5 Is there anybody else in the audience who wishes to  
6 comment? There appears to be none.

7 Any other comments by the Members?

8 SENATOR BEVERLY: Move we recommend confirmation.

9 SENATOR CRAVEN: Senator Beverly moves. Call the  
10 roll, please. We're going to keep the roll open, too, for  
11 Senator Petris.

12 SECRETARY WEBB: Senator Ayala.

13 SENATOR AYALA: Aye.

14 SECRETARY WEBB: Ayala Aye. Senator Beverly.

15 SENATOR BEVERLY: Aye.

16 SECRETARY WEBB: Beverly Aye. Senator Petris.  
17 Senator Craven.

18 SENATOR CRAVEN: Aye.

19 SECRETARY WEBB: Craven Aye. Senator Roberti.

20 SENATOR CRAVEN: The matter's out with three votes.  
21 Senator Petris will be here to cast another, I'm sure.

22 Congratulations.

23 GENERAL BOZEMAN: I take it, as a military term, I'm  
24 dismissed.

25 SENATOR CRAVEN: You are dismissed.

26 GENERAL BOZEMAN: Thank you kindly, sir.

27 [Thereupon this portion of the  
28 Senate Rules Committee hearing  
was terminated at approximately  
2:26 P.M.]

--oo0oo--




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I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 31st day of March, 1993.

  
EVELYN J. MIZAK  
Shorthand Reporter







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APPEARANCES

MEMBERS PRESENT

SENATOR DAVID ROBERTI, Chair

SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR RUBEN AYALA

SENATOR ROBERT BEVERLY

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

ELOISE ANDERSON, Director  
Department of Social Services

JOHN R. BANUELOS, Director  
Department of Boating and Waterways

JOHN D. HEALY, Chief Deputy Director  
Department of Social Services

FAYE M. CROSLEY  
AMARCH, Richmond

ALFRED C. SIMMONS  
African-American Foster Group Home Association

FREDERICK MURPH, Senior Minister  
First African Methodist Episcopal Church  
Oakland

KEN MSEMAJI  
United Domestic Workers of America

VIVIANNE DUFOUR, President  
League of United Latin American Citizens

JACQUES S. WHITFIELD, Corporate Counsel  
J.J. Friendship Homes, Inc.  
AMARCH

SENATOR PAT JOHNSTON



INDEX

	<u>Page</u>
Proceedings . . . . .	1
<u>Governor's Appointees:</u>	
ELOISE ANDERSON, Director Department of Social Services . . . . .	1
Background and Experience . . . . .	1
Questions by CHAIRMAN ROBERTI re:	
In-Home Supportive Services . . . . .	6
JOHN D. HEALY, Chief Deputy Director Department of Social Services . . . . .	7
Background and Experience . . . . .	7
Both Above-Named Nominees Questioned as a Team . . . . .	15
Questions by SENATOR AYALA re:	
AFDC Projected Caseload . . . . .	15
Percentage of AFDC Population Due to Influx from Other States . . . . .	16
Questions by SENATOR PETRIS re:	
Closing of Two Field Offices in Contra Costa County . . . . .	17
Current Status of Dispute . . . . .	17
Possibility of Losing \$3 Billion . . . . .	18
Problem of Access . . . . .	19
Lack of Definition from Feds . . . . .	20
Agencies Involved in Meeting . . . . .	21
Level of AFDC Grants vs. Needs . . . . .	22
Request for List of Available Jobs . . . . .	24
Proposal for Cuts . . . . .	24
Estimate of How Long People Stay on AFDC . . . . .	26





INDEX (Continued)

Percentage of Teen Mothers . . . . .	27
Average Time on Welfare . . . . .	29
Grant Rates vs. Needs . . . . .	31
Lower Rents than Anticipated . . . . .	32
<u>Witnesses in Support:</u>	
FAYE CROSLEY	
AMARCH, Richmond . . . . .	35
Questions by SENATOR PETRIS re:	
Ability to Support Family on Minimum Wage . . . . .	35
ALFRED C. SIMMONS	
African-American Foster Care and Group Home Association . . . . .	38
FREDERICK O. MURPH, Senior Minister First African Methodist Episcopal Church Oakland . . . . .	40
KEN MSEMAJI	
United Domestic Workers of America . . . . .	42
VIVIANNE DUFOUR, President	
LULAC . . . . .	45
JACQUES WHITFIELD, Corporate Counsel	
J.J. Friendship Homes and AMARCH . . . . .	46
Motion to Confirm Both Appointees . . . . .	47
Committee Action . . . . .	48
JOHN R. BANUELOS, Director	
Department of Boating and Waterways . . . . .	48
Introduction by SENATOR PAT JOHNSTON . . . . .	48
Background and Experience . . . . .	49
Motion to Confirm . . . . .	53
Committee Action . . . . .	54
Termination of Proceedings . . . . .	54
Certificate of Reporter . . . . .	55



## P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN ROBERTI: We have before us Eloise Anderson, Director of the Department of Social Services, and John D. Healy, Chief Deputy Director of the Department of Social Services.

Ms. Anderson, we will start with you and ask you why you feel you're qualified to assume this position?

MS. ANDERSON: Thank you for the opportunity to talk to you a little bit about myself and why I feel I am qualified for the position of Director for the Department of Social Services.

I was born 51 years ago in a place called Toledo, Ohio. Toledo, Ohio at that time was a blue-collar community, and I was raised in a blue-collar community that was hard working and very proud, pretty industrial, very heavily into the auto industry and pretty heavily into the glass industry. Some people in that community came from the south looking for freedom and a better place to live, to work, and raise their children. Also, there was a large number of people who came from Eastern Europe in search of the same thing: freedom and a better place to raise their children.

I also grew up Catholic, went to Catholic schools, then into public high school, and then into a public university. So, my views of life were very much created by my life as it was in Toledo, Ohio, as a kid growing up in a very blue-collar community.

I grew up in a time that was called "The Peaceful



1 '40s and '50s". I saw domestic abuse, drug abuse better known  
2 as alcoholism. I saw strong families; I saw families with  
3 mothers only because, remember, I came along during the war, so  
4 a lot of fathers did not come back, and women had to raise their  
5 children by themselves. I saw racial discrimination. I saw  
6 religious discrimination. Being a Catholic was in those days --  
7 very much had a prejudice against. So, I saw a lot of that, of  
8 religious intolerance.

9 And I saw -- probably the most important thing, I saw  
10 a lot of intolerance in terms of how people thought and  
11 believed, and that also played an impact on how I think and  
12 believe and see the world.

13 I also grew up in a family where my father was a  
14 life-long Republican and my mother was a Democrat, and my mother  
15 was a union organizer, so you know, at the family table, we had  
16 quite a few different discussions going on. So, I also grew up  
17 believing that there was more than one way to think about  
18 something, both politically and otherwise.

19 I did not start my career out as a public servant. I  
20 started out as a community organizer and a social worker in what  
21 we called a settlement house. I come out of the Jane Adams  
22 movement of settlement houses.

23 In Milwaukee, about 27 years ago, maybe closer to 30  
24 years ago, I worked in a social service agency and wrote the  
25 first component for social services in Head Start and helped  
26 start the first Head Start for the City of Milwaukee.

27 I also developed youth programs to prevent juvenile  
28 delinquency, and I worked with about 200 families who were then





1 on what we called a program called ADC, which is now better  
2 known as AFDC, to work with mothers to get them back to work.

3 I moved from private human service work into the  
4 public arena, and when I moved into the public arena, I moved in  
5 as a municipal management consultant, working for the State of  
6 Wisconsin. And my responsibilities were working with counties,  
7 and I worked with what we called the "Iron Ring", which was 21  
8 cities that surrounded Milwaukee County and -- surrounded the  
9 City of Milwaukee and Milwaukee.

10 I moved from there to becoming an employment  
11 relations specialist. An employment relations specialist in our  
12 -- in the State of Wisconsin was a person, and still is a  
13 person, who arbitrates contracts, helps develop the union  
14 contracts, and represents management at the arbitration level.  
15 So, I worked in that arena as well.

16 I moved from state service to work in the county, and  
17 at the county I worked as the executive assistant for the County  
18 Exec. And Wisconsin county executives are elected officials.  
19 They are the second-most powerful position in the state, unlike  
20 the State of California, where they're appointed. They are  
21 usually county-wide elected positions, and we have quite a few  
22 of those in Wisconsin.

23 And in that case, I was the executive assistant to  
24 Dane County, which is our second-largest county in Wisconsin,  
25 and all the departments reported to me, and we had everything.  
26 I tell people that I oversaw everything from airports to zoos,  
27 because we did have an airport and we did have a zoo.

28 I left there and went to work for the Department of



1 Health and Social Services in Wisconsin as the Division  
2 Administrator for the Division of Community Services. Our  
3 organization is very different from the organization here. What  
4 would in this state be several departments were all within my  
5 Division. I oversaw Aging; I oversaw Long-term Care, and this  
6 was long-term care for people who were physically disabled,  
7 people who were mentally ill, and people who were aging. I  
8 oversaw the Alcohol and Other Drug Programs. I oversaw Mental  
9 Health. I oversaw Child Welfare. I oversaw Juvenile  
10 Delinquency. I oversaw the Office of Economic Opportunity. I  
11 oversaw the Day Care. In this state, Day Care is in the  
12 Department of Education; in that state, it was in my Division.

13 I also oversaw Licensing. Licensing was for group  
14 homes, child caring institutions. I also oversaw certification.  
15 In the State of Wisconsin, if you're going to provide alcohol  
16 and other drugs or mental health services, your facility must be  
17 certified. I also oversaw the certification of those  
18 facilities.

19 I also oversaw AFDC, and like California, Wisconsin  
20 is a county-run state. And I also oversaw Child Support.

21 So, I believe my work effort is pretty much in --  
22 consistent with what I've done in the past.

23 My volunteer effort, I think, ranges the same kinds  
24 of areas as my work experience and my life experience. I have a  
25 couple things I am very proud of. Unlike many of the people in  
26 my age group who went off to the Peace Corps, I stayed home. I  
27 was a member of VISTA instead and supervised VISTAs. I thought  
28 that my place was here, to make changes in our own community and



1 not to run overseas someplace and make those changes.

2 I was on the Equal Rights Council for our state. I  
3 was a member of the Urban League, and I also -- one of the most  
4 important roles that really got me to look at education, I was  
5 on our state Voc-Tech Advisory Council. In the State of  
6 Wisconsin, we have what we call vocational schools, that you  
7 would put very similar to your community colleges, except the  
8 emphasis is vocational education and not necessarily two-year  
9 degrees.

10 I was on the Board of Catholic Social Services. I  
11 was also on Dane County's Manpower Consortium. It was what  
12 became JEPTA programming. Here, it would be considered the PIC;  
13 there, it was considered the Manpower Consortium. I was also on  
14 that board, and I was on the Board of Public Welfare for the  
15 County.

16 And my only ever elected official position, I was  
17 Board President -- the Board President for the Black Hawk Girl  
18 Scout Board, which covered nine counties in our state. And I  
19 was on -- the chairperson for the Interagency Council for Birth  
20 to Three, that dealt with disabled children. And I also on the  
21 Board of Trustees for the University of Wisconsin, and I sort of  
22 cherish that particular appointment, because I was a Republican  
23 who was appointed by a Democrat, Donna Shulayla, to that  
24 position.

25 And I was also a sergeant in the U.S. Army Reserves.

26 So, I think my -- my experience --

27 CHAIRMAN ROBERTI: You have a breadth of experiences.

28 MS. ANDERSON: -- make me prepared for this job. I







1 sort of kind of looked at this job as that it had my name on it  
2 a long time ago.

3 CHAIRMAN ROBERTI: So here you are.

4 MS. ANDERSON: Yes.

5 CHAIRMAN ROBERTI: In-Home Supportive Services has  
6 been cut back over past budgets, and I suspect that's another  
7 problem we're going to have to be facing. We're getting more  
8 and more elderly ill that are depending upon this.

9 Do you have any program or any way of dealing with  
10 it, or what are your programs?

11 MS. ANDERSON: Deal with In-Home --

12 CHAIRMAN ROBERTI: Yes, as advocacy, or with the  
13 Administration, or ways of expanding it even though we're not  
14 going to be able to have the added dollars. What brain power  
15 are you putting to this?

16 MS. ANDERSON: Well, I've done a couple of things.

17 When I came in, the Department had a division called  
18 the Division of Adult and Children. And one of the things that  
19 was very clear to me is that the way we were organized was not  
20 going to give either one of these arenas equal treatment within  
21 the organization. So, I separated the Division, now creating an  
22 Adult Division and a Children and Family Division. I put a  
23 person at the head of that Division who I thought was sensitive  
24 to the issues of the elderly who are frail, sensitive to the  
25 physically disabled, and sensitive to other people who are in  
26 need of long-term care, as well as the adult population who  
27 needed to have some watch over them.

28 We have just been granted a movement in terms of the



1 implementation of a personal service contract, which will help  
2 us to provide some very different kinds of supports to some of  
3 the people on -- who are on In-Home Supportive Services. So, I  
4 think that, together with personal care option, begins to help  
5 us do some things with limited resources.

6 My view, in terms of how we've organized this over  
7 the years, is that we really need to look at how we can more  
8 efficiently do what we have if we're going to continue to have  
9 limited resources. So, I put a major effort into paying  
10 attention to that. We're going to be developing a task force  
11 with -- in fact a letter, I approved the letter about a week or  
12 so ago, to develop a task force to look at how we can best come  
13 around the table around Adult Services, and physically disabled,  
14 and the elderly who are frail.

15 So, I think that you will see out of our  
16 administration a real effort to -- to support this in any way we  
17 can.

18 CHAIRMAN ROBERTI: Thank you.

19 Any other questions of Ms. Anderson?

20 Maybe we should take Mr. Healy's statement first, and  
21 then we'll go back to questions.

22 Mr. Healy, why don't you tell us why you feel you're  
23 qualified to assume this position?

24 MR. HEALY: Thank you, Mr. Chairman, Members of the  
25 Committee, for the opportunity to present myself before you for  
26 your consideration of my appointment as Chief Deputy Director of  
27 the Department of Social Services.

28 I will keep my comments brief, I -- probably less



1 than five minutes. I hope to give you a sense of who I am, what  
2 my experiences have been, and what I bring to this job.

3 On a personal note, I've been married to my wife,  
4 Joanne, for 14 years, and I have one child, a 10-year-old son  
5 named Christopher. I'm a second generation Californian, born in  
6 Los Angeles and raised in the San Bernardino area. I attended  
7 Holy Rosary Elementary School, St. Thomas Aquinas High School,  
8 and graduated from California State Polytechnic University,  
9 better known as Cal. Poly, Pomona, with a degree in political  
10 science.

11 I am the first and only member of my family to -- to  
12 graduate from college, and I'm the only member of my family to  
13 ever work in the public sector.

14 Eloise commented about growing up in the '40s and the  
15 '50s, and I grew up in the '50s and the '60s. And I grew up in  
16 an Irish-German Catholic home environment, and we had plenty of  
17 opportunity during the '60s to discuss nightly issues that are  
18 of importance, social, political issues, the Vietnam War, and so  
19 forth and so on. We had nightly arguments, discussions. I  
20 think it was during the '60s when I had that environment and  
21 those kinds of dialogues, if you will, with my Mom and my Dad  
22 that I began having a focus and a commitment to wanting to work  
23 in the public sector.

24 I think if my Dad was here -- he is alive -- but I  
25 think if he was here at this table, and we were continuing to  
26 have these discussions, he'd probably tell you that I've become  
27 a little bit more -- more practical as I have matured, and I'd  
28 probably sit here and tell you that he's become a little bit







1 mellow as he has aged. So, we still have the same dialogue on  
2 issues.

3 My -- my interest in government service, I think,  
4 took focus and became much more cemented in -- in the context of  
5 a career when I visited Sacramento in 1967. I was a member of  
6 the California Boys' State Delegation. I represented the San  
7 Bernardino area when I came up here. For me personally, it was  
8 one of the most invigorating experiences that I had ever had in  
9 playing for a week on being a legislator, and being a mayor of  
10 the city, and coming over and engaging with my -- my  
11 representative at the time, and seeing the legislative process  
12 in action.

13 CHAIRMAN ROBERTI: You were mayor of --

14 MR. HEALY: I was a mayor of a city at Boys' State,  
15 yes.

16 [Laughter.]

17 MR. HEALY: Invigorating experience. I can't tell  
18 you the laws that I passed.

19 Anyway, I think for me, that was a very, very  
20 important time in my life, and that helped shape -- shape where  
21 I was going, and cemented my commitment to wanting to work in  
22 the public sector.

23 As I mentioned earlier, I went to college and  
24 received a degree in political science. Immediately upon  
25 graduating from college, I came into the State Civil Service.  
26 I've been with the system; I've been with the state for -- for a  
27 little in excess of 20 years now. I started in the State  
28 Personnel system, where I had experience in labor relations, and



1 selection, classification, and things of that ilk.

2 I was very fortunate in the late '70s to receive a  
3 career executive assignment in the Employment Development  
4 Department. I had responsibilities for policy development in  
5 the unemployment insurance, job service employment and training,  
6 and the disability insurance arenas, and I eventually ended up  
7 being the Deputy Director responsible for managing a  
8 7,000-person field operation that implemented those -- those  
9 programs and those policies.

10 In the mid-80s, in '84, I moved to be the Deputy  
11 Director of Administration for the Employment Development  
12 Department. I had the typical responsibilities of personnel,  
13 budgeting and automation, et cetera.

14 I share this with you because it was during this  
15 time, this 10-12 year period with the Employment Development  
16 Department as a career executive, that I -- that I basically  
17 learned my management style and developed what I consider to be  
18 the guiding principles for how I operate.

19 Some of those guiding principles would be: a  
20 recognition of the importance of communication, both within an  
21 organization as well as outside of an organization; the  
22 importance -- and some of this might sound somewhat contrite to  
23 you, but I do think it's terribly important, they are guiding  
24 principles for me personally -- integrity, the integrity of  
25 myself, the integrity of any part of my organization that I have  
26 responsibility for; a recognition of my authorizing environment;  
27 the relationship with the Legislature; the relationship with the  
28 public; and the importance of always trying to bring forth the



1 best information available to all people concerned.

2 Another guiding principle for me personally is access  
3 and participation. I think people that are affected by our  
4 programs, affected by our policies, have got to be given  
5 opportunities to have access to the decision-making process, and  
6 in particular, participate at the early stages, when policy is  
7 being formulated.

8 Within the organization, I think it's incumbent upon  
9 a management team to create an environment for every employment  
10 -- where every employee believes they have the opportunity to  
11 contribute, and in fact do have an opportunity to contribute,  
12 And I think equally important, to reach their full potential.

13 Also during this time, I started to get a very keen  
14 appreciation for the importance of the scarce public resource  
15 and the importance of the public trust. We've all worked hard  
16 on trying to figure out our priorities over the last decade, and  
17 we will continue to do so. The demands and competition for the  
18 scarce public resource continues to be a primary concern and  
19 consideration for all of us involved in the public service.

20 I think it was in part this -- this issue relative to  
21 the competition and the necessity of creating priorities on the  
22 public resource where I developed a passion, if you will, for  
23 the strategic use of information technology in furthering the  
24 way we deliver services. Information technology can have a  
25 tremendous impact on improving the levels of services that we  
26 provide the public, and it can also have a significant impact on  
27 reducing the cost of the delivery of those services.

28 When at the Employment Development Department, I







1 played a very significant role, a leadership role, in basically  
2 automating every business function in that organization: the  
3 collection of the payroll taxes; the automation of the job  
4 service labor exchange for the State of California; the  
5 automation of the unemployment insurance program; and the  
6 automation of the disability insurance program. I received a  
7 Senate Resolution acknowledging that, and I received a plaque in  
8 honor from the Information Technology Management Forum from the  
9 State of California, acknowledging the role that I played.

10 When I was asked by -- by the Agency Secretary for  
11 the Health and Welfare Agency if I was interest in becoming and  
12 being considered for the Chief Deputy Directory of Social  
13 Services, I -- frankly, I didn't think it had my name on it, but  
14 I certainly leaped at the opportunity. I felt that my  
15 experience would be very beneficial, that I could have a  
16 positive impact. And I think equally important, I feel that the  
17 programs that the Department of Social Services is responsible  
18 for, either directly or as an oversight body over the  
19 administrative entities of the county, are some of the most  
20 important, compelling social programs that we've got in  
21 operation for the State of California.

22 I've been with the Department for 16 months. I came  
23 over as the Interim Director at the request of coming over as  
24 the Chief Deputy. It took longer than I expected, and then I  
25 was appointed Chief Deputy when Eloise was -- came on board.  
26 During that 16-month period, I want to share with you a couple  
27 activities that I have been engaged in that I think clearly  
28 demonstrate my commitment to the previously mentioned guiding



1 principles.

2           One of the issues that -- that came to me when I  
3 first came on board, I went out to the legislative staffers. I  
4 went out to the community, and I told everybody that I could  
5 talk to about my -- my -- the importance of access, my  
6 commitment to participation in opening the decision-making  
7 process in the Department.

8           One of the very first issues that came to me from the  
9 District Attorneys' Association, from the Family Support  
10 Council, from various Legislators and legislative staffers, was  
11 concern over the lack of a visible presence, if you will, in a  
12 leadership role in the Department in the area of Child Support.  
13 As a result of that, I put together in very short order a very  
14 comprehensive effort, brought in staffers, brought in the  
15 district attorneys' staff, brought in the DAs themselves, the  
16 Family Support Council, my own staff, and over a three-month  
17 period, we developed a very comprehensive five-year plan for the  
18 Child Support program that resulted in 10-11 pieces of  
19 legislation being passed with obvious support and cooperation  
20 and in partnership with the Legislature.

21           Another significant issue that came to me is actually  
22 a very hot issue, as I arrived in the Department, was the  
23 Community Care Licensing program. There were round-table  
24 discussions going on. Senator Bill Greene had chaired a number  
25 of them, Senator Diane Watson, and Assemblyman Tom Bates. It  
26 was clear from the information that was being provided at those  
27 round-table discussions that there were significant concerns in  
28 the community with the manner in which the Community Care





1 Licensing program had been operating, and I worked very  
2 intimately and very closely with those -- those individual  
3 Legislators, as well as the interest groups, and we ended up  
4 implementing a ten-point plan to make significant improvements  
5 in that program.

6           Senator Petris, I don't know that he would remember,  
7 but he participated in a -- in a group setting with providers  
8 down in Oakland where some of these issues were discussed. And  
9 I presented to them the kinds of changes that we were about to  
10 make, and I heard from them some of the concerns, and in many  
11 cases, the applaud for those changes.

12           Those are examples that I think demonstrate what I  
13 said about living the guiding principles.

14           Lastly, and I really -- I don't think we can  
15 overstate the importance of bringing information technology into  
16 the Social Services arena. I think what we have in the State of  
17 California should be an embarrassment. We have an AFDC program,  
18 we have a Children Welfare Services program, we have a Child  
19 Support program. We've got 40-50,000 different employees at the  
20 state and the county levels, trying to carry out the  
21 responsibilities of those programs, and we don't have the  
22 information technology tools to help them carry out those  
23 responsibilities. That is a major responsibility.

24           We have got a very aggressive, very assertive effort  
25 dealing with that. We have reorganized the organization to  
26 develop an Information Technology Division. We have brought in  
27 some very talented people. We have the cooperation and support  
28 of the County Welfare Directors' Association and the County Data





1 Processing Managers' Association. We have the Children Welfare  
2 Services automation project of over \$100 million that we have  
3 now under way, and we have a contract with a vendor working with  
4 us to develop that system. We have the Child Support automation  
5 system that's about \$84 million under way, approved, being  
6 largely funded by the federal government. We have contract with  
7 our vendor, and we have federal approval, and -- and county  
8 support for moving forward with an automation program for AFDC.

9 I think it's probably going to be a five or six-year  
10 effort to bring these to fruition. We're talking about probably  
11 a billion dollar investment, but I think it's one of the most  
12 long-term, most important, far-reaching things that we can  
13 commit ourselves to.

14 And I think I bring talent and skills and experience  
15 to that challenge, and I hope for the opportunity to -- to play  
16 it out, so thank you.

17 CHAIRMAN ROBERTI: Thank you, Mr. Healy.

18 Are there any questions? Senator Ayala.

19 SENATOR AYALA: I guess it's to both of you.

20 I think that the Department of Social Services is  
21 probably the most misunderstood agency in the State of  
22 California.

23 A year ago, the Governor indicated that the AFDC  
24 caseload was rising at 10 percent. Your Department put out a  
25 statement earlier this year that either they were going down or  
26 they were remaining at the same level.

27 What do you attribute that to?

28 MS. ANDERSON: I think -



1           SENATOR AYALA:   Good management?

2           MS. ANDERSON:   I think there are a variety of things  
3 that contribute to that.   Some of that we don't know, some of it  
4 we do know.

5           I think that some of the reforms that have been done  
6 in the past have played some impact on that.   I think that the  
7 issues that we don't know about, we can't really speak to.

8           We believe that some of our work programs that have  
9 been operating have played some impact on that, and then the  
10 rest of them, I don't think we can -- we can really speak to.

11          You know, when we project, we project based on what  
12 has already happened in the past.   So, if you look at the  
13 caseload rate, it is still growing at a rate faster than the  
14 population growth is going.   So, even though it may not be as  
15 high as we had projected, it is still higher than population  
16 growth.   So, we need to be concerned about that.

17          If anything, if we had any growth in there at all,  
18 which we wish we wouldn't have, it ought to be equal to or close  
19 to population growth, and it's still way beyond that.   So, we  
20 are concerned, even though it is not as high as it was, and we  
21 don't have the answers to all that yet.

22          SENATOR AYALA:   What percentage do you believe of  
23 California's AFDC population is here due to the fact that we're  
24 told that our AFDC grants are higher than neighboring states?  
25 Do you have any idea of what percentages of folks have come as a  
26 result of that?

27          MS. ANDERSON:   According to the data, it's about  
28 seven percent on an annual basis.   However, the annual basis



1 then floats in to be a part of your total population. So, if  
2 you get seven percent a year, and they go into your population,  
3 over time they become more than seven percent. Next year  
4 there's fourteen, and next year's it's added up.

5 So, I can't speak to how many right now are on the  
6 grant who came here because they were interested in coming for  
7 higher grants, but seven percent each year does add up over  
8 time.

9 SENATOR AYALA: Thank you.

10 CHAIRMAN ROBERTI: Any other questions? Senator  
11 Craven.

12 SENATOR CRAVEN: Do you want to take these  
13 separately, or are they a team?

14 MS. ANDERSON: We are a team, sir.

15 [Laughter.]

16 CHAIRMAN ROBERTI: Senator Petris.

17 SENATOR PETRIS: I'd like to ask some questions about  
18 Contra Costa. You had a big flare-up there with the closing of  
19 some field offices in the two poorest communities in the whole  
20 county, which I happen to represent. One is El Sobrante and the  
21 other is Richmond. And Richmond's the largest city in the  
22 county and has the largest number of poor people, and so forth.  
23 And there's been an exchange of correspondence back in forth  
24 involving the U.S. Department.

25 What's the current status? Have those disputes been  
26 resolved now? Are the offices going to remain closed, or are  
27 they open, or what?

28 MS. ANDERSON: If I could say, it's probably a little





1 bit, or as we speak, those issues are being resolved. And we  
2 believe that they're going to be resolved to the satisfaction of  
3 the Federal Office of Civil Rights.

4 If you're not -- Contra Costa County never went  
5 forward with their plan. They produced a plan, and they have  
6 not implemented that plan. And I think that as we look at it  
7 from this point, that it will be resolved in a manner that is  
8 satisfactory to the Complainant, satisfactory to the County, and  
9 satisfactory to the federal government.

10 What we have tried to do --

11 SENATOR PETRIS: Does that mean that we won't lose  
12 the \$3 billion that --

13 MS. ANDERSON: We've never been -- it has never come  
14 to my attention that \$3 million was in jeopardy.

15 SENATOR PETRIS: Well, it's come to a lot of other  
16 people's attention, because they've made that clear to me. I  
17 haven't got a letter from the U.S. people, but those working in  
18 the area seem to feel that if we do close those offices without  
19 the hearings and so forth, especially, that we're in big  
20 jeopardy.

21 Is that part of the subject that's being --

22 MS. ANDERSON: Yes, the public hearing --

23 SENATOR PETRIS: -- resolved?

24 MS. ANDERSON: What the plan is going to be is the  
25 public hearings, and impact of whatever Costa County decides to  
26 do, and what kind of impact will that have on the issues that  
27 were brought forward to us, which was Richmond and the other  
28 community.



1           SENATOR PETRIS: I understand, I know you're new  
2 here, and hopefully you'll be able to visit the county sometime,  
3 along with all the rest of the counties.

4           But the problem, one of the problems there is access.  
5 People who are cut off in Richmond by having those offices  
6 closed have to go all the way to Martinez. That's a long way.  
7 It's probably half the width of the State of Wisconsin at  
8 certain portions of it. That's a wild guess. It may be --

9           MS. ANDERSON: We have few people, but we've got a  
10 lot of ground.

11          SENATOR PETRIS: Well, we'll measure it sometime, but  
12 anyway, it's a long way off, and the people are poor. And  
13 there's no public transportation that'll take you from one end  
14 of the county to the other. People do a lot of driving of their  
15 own automobiles there, so it poses a very grave question.  
16 That's one of the reasons for the concern.

17          MS. ANDERSON: In the plan that Costa County -- the  
18 original plan in which they proposed for -- it did have  
19 accommodations for transportation for people who were without  
20 transportation to get them to the central office. They dealt  
21 with all those issues within their plan.

22          John wanted to --

23          MR. HEALY: Yes, Senator, the dollar amount issue  
24 that you raised is, to make you more comfortable, actually \$3  
25 billion dollars is what the individuals that have come out from  
26 the Civil Rights Office from the Department of Agriculture.

27          But to put that into some context, the -- part of the  
28 problem here is that we do not have regulations. We do not have



1 process. We do not have instructions. We do not have  
2 definition from the federal government, either at the national  
3 level or at the regional level, on exactly what a county is  
4 supposed to do and the process that they're supposed to engage  
5 in when they have issues like this confronting them.

6 And what has happened is --

7 SENATOR PETRIS: Excuse me.

8 Issues like what?

9 MR. HEALY: Issues like -- like attempting to  
10 consolidate service points, which is what they were attempting  
11 to do here.

12 And so, the office that is out is from the Federal  
13 Department of Agriculture, and what they are hoping to resolve  
14 today is an agreement as to what kind of a process would need to  
15 be engaged in by the county, by the state, by the regional  
16 office of Food and Nutritional Services, as well as by the  
17 Federal Department of Agriculture, if the county proposes to  
18 move forward with any kind of consolidation of service points.

19 The \$3 billion is the total amount of money that we  
20 have in our food stamp program and other Department of  
21 Agriculture monies coming into the State of California. We  
22 don't have -- this federal office is not out here doing an  
23 investigation. They're out here trying to reach consensus on a  
24 process that we should all engage in.

25 MS. ANDERSON: I think one of the things that the  
26 federal government -- federal office on this one is having  
27 problems with is that when they look at what the state is doing,  
28 they look at it from a state-operated system. We are a county-







1 operated system, so many of the issues that they put in front of  
2 us are really for state-run systems and not for county-run  
3 systems.

4 And one of the other things that --

5 SENATOR PETRIS: Well, that's why the feds are  
6 concerned, because that's a lot of their money.

7 MS. ANDERSON: We understand it's a lot of their  
8 money, but they don't have -- when we were going through this  
9 process, we would ask the feds, "What is it that you expect?  
10 What's your expectations? What should we do?"

11 And they never told us anything beforehand. They  
12 always told us things after the fact, after we did this, and  
13 they said, "Well no, you should do this."

14 So, it was hard for us to try to figure out what is  
15 the federal expectation and meet that, and at the same time, try  
16 to be sensitive to the issues that were being brought in by the  
17 charge, and at the same time being sensitive to the county's  
18 needs, trying to put that all together, especially when the feds  
19 were doing the after-the-fact with us all the time.

20 We think we're coming to resolution on what's going  
21 on. We don't think that it's going to be an issue.

22 SENATOR PETRIS: Well, your letter of the 17th of  
23 February seems to be very optimistic about that, to the Contra  
24 Costa Legal Services Foundation.

25 Who is involved in this meeting today, right now, to  
26 resolve it, which agencies? Is it everybody, the state, and the  
27 county, and the feds all meeting together?

28 MR. HEALY: Yes, we have the feds at the national



1 level --

2 SENATOR PETRIS: All three --

3 MR. HEALY: Yes.

4 SENATOR PETRIS: -- Contra Costa or statewide  
5 problems?

6 MS. ANDERSON: No, just Contra Costa and their -- the  
7 advocacy group that brought the charges.

8 SENATOR PETRIS: Made the complaint.

9 MS. ANDERSON: Yes.

10 MR. HEALY: Yes.

11 SENATOR PETRIS: They're included.

12 MS. ANDERSON: Yes, yes.

13 SENATOR PETRIS: And your expectation is that that'll  
14 be resolved this afternoon?

15 MS. ANDERSON: Yes.

16 SENATOR PETRIS: Let me go to another subject. I  
17 notice in your extensive experience in Wisconsin, there's  
18 certain areas that we have that you didn't cover back there.  
19 One of them is the benefit payment level.

20 There's been an awful lot of pain in this state in  
21 the last three years among the poor because they've been having  
22 -- their grants have been cut and cut. In the judgment of a lot  
23 of people, they weren't high enough to begin with.

24 You're not privy to those cuts, but you come into it  
25 at a season of one cut after another within a short time, within  
26 two or three years.

27 Have you examined the level of grants and the needs  
28 on the outside to make your own judgment as to what is desirable



1 and do-able?

2 MS. ANDERSON: I think that the proposal that you  
3 have in front of you, if we're talking about AFDC, which is what  
4 I think we're talking about, has been done in such a fashion  
5 that -- and very few states have tried to do this -- that the  
6 cuts can be replaced back by very few hours of work a week on  
7 the part of the recipient. And that is unusual of any state who  
8 has made a cut, and a lot of states have made cuts because a lot  
9 of states have faced the same kind of financial situation that  
10 this state has faced, but they've just cut without the ability  
11 for the recipient to work any of that part back.

12 In the State of California, what the Governor has  
13 proposed is, if the recipient works part-time --

14 SENATOR PETRIS: Where?

15 MS. ANDERSON: In jobs in California. What we know  
16 is that there are jobs being created in the State of California.  
17 Just like you're losing jobs, you're creating jobs.

18 SENATOR PETRIS: Can you give me a list of jobs  
19 available? I know a lot of people who'd love to have it.

20 MS. ANDERSON: Well, we've got -- you have a GAIN  
21 program in the State of California, and if we go out and talk to  
22 the counties who are running those programs, they will show you  
23 where people are finding jobs.

24 Now, we're not saying that everybody's finding jobs,  
25 but a lot of people are finding jobs. There are a lot of  
26 service jobs. In fact, the EDD has put out a forecast to the  
27 year 2005 that says where the jobs are being created in this  
28 state are in the jobs in which many of the people on AFDC would





1 go after.

2 No, there're probably not rocket engineer jobs out  
3 there. No, there're probably not aeronautical engineer jobs  
4 out there. No, there're probably not even a lot of attorney  
5 jobs out there. But a lot of the jobs are available for people  
6 with the skill levels of a lot of the people on AFDC.

7 SENATOR PETRIS: Can you give me anything more  
8 specific, in which communities that's happening?

9 MS. ANDERSON: I can send you some information on  
10 that, and I will be very glad to do that.

11 SENATOR PETRIS: Can you tell me how many have  
12 actually been put to work since this proposal was made, or is  
13 the proposal still being considered and not adopted yet?

14 MS. ANDERSON: No, the proposal -- the proposal for  
15 cutting is in front of you now, in front of the Legislature now.

16 SENATOR PETRIS: Well, that's the current, but  
17 there've been prior cuts, too, last year and the year before.

18 MS. ANDERSON: And we can send you information back  
19 on who's been getting employment in the State of Wisconsin -- I  
20 mean, in the State of California in --

21 SENATOR PETRIS: I wouldn't mind knowing about  
22 Wisconsin, too.

23 MS. ANDERSON: -- in the AFDC program.

24 SENATOR PETRIS: All right.

25 Now, with respect to the specific proposal you  
26 described, the Governor says, "We're going to cut your grant,  
27 but if you work a certain period of time, we will put you on a  
28 fast track to get back on the grant."



1 Is that what you're saying?

2 MS. ANDERSON: No.

3 With the -- the way the cut is designed is that, if a  
4 person goes to work, they can work back what they've lost on the  
5 grant without being penalized for that.

6 In many cases, the way AFDC is structured, that if  
7 you work, you lose, and the way it's designed is that it's no  
8 benefit for you to go to work.

9 The Governor has tried to change that around to give  
10 you what I would call some supports in working, to make work  
11 pay, so that you don't lose as much by working as you did under  
12 the old system.

13 SENATOR PETRIS: Is that in place, or is that a  
14 proposal that he's floating --

15 MS. ANDERSON: That's the proposal that you have in  
16 front of you, yes.

17 SENATOR PETRIS: So that hasn't been acted on yet.

18 MS. ANDERSON: No. I'm hoping that you will.

19 SENATOR PETRIS: So, we don't have a list of  
20 recipients who are working.

21 Well, this isn't the GAIN. This is over and above  
22 the GAIN. The GAIN program has been in place for some time, and  
23 there's a lot of different reactions to that. Some people are  
24 happy with it, and some people are very unhappy. I'm sure  
25 you've been told that.

26 I guess we'll have to wait and see if the proposal's  
27 adopted, and see how it works.

28 So, when you talk about providing a list of those



1 who've been receiving jobs, you're talking about GAIN.

2 MS. ANDERSON: And some people who have gotten jobs  
3 on their own. And some people have gotten jobs as just a part  
4 of the effort that the counties are doing outside of GAIN.  
5 There's a lot of movement in the AFDC population towards work.  
6 Some of it is because they've gone to the GAIN program; some of  
7 it's because they've looked for it on their own. They don't  
8 want to be on AFDC; they want to work whenever they can. Some  
9 of it because the counties have provided some support to them.  
10 Some of it's because they've been on the JEPTA program through  
11 the PICs. There's a variety of ways that the people on AFDC go  
12 out and get work.

13 SENATOR PETRIS: Do you have any kind of estimate of  
14 how many have left AFDC?

15 MS. ANDERSON: How many have left AFDC?

16 SENATOR PETRIS: Yes, or what percentage?

17 MS. ANDERSON: Yes, we try -- we try to keep some --  
18 as much data as we can on people, the turnover rate on AFDC.

19 SENATOR PETRIS: But you don't have that with you?

20 MS. ANDERSON: Not with me, I don't.

21 SENATOR PETRIS: Mr. Healy, do you have it?

22 MR. HEALY: Well, maybe not to the level that -- that  
23 you're asking, but we -- we realize about 17-20 percent of the  
24 individuals leave within, say, six months of coming on board; 50  
25 percent leave within 18-24 months of coming on board; and then  
26 roughly 50 percent are still on the system for 3, 4, 5 years  
27 out.

28 Is that the kind of information you're asking for?





1           SENATOR PETRIS: Yes, that's the kind I'd like to get  
2 an update on. I've seen figures over a period of time.

3           The kind you've just given me don't get very much  
4 attention. All I've been hearing is "three generations on  
5 welfare", and why we should get rid of it. Just the usual, the  
6 same, old mythology.

7           And that's why I think you were asked in the  
8 beginning how many people come in from other states to get on  
9 welfare.

10          MS. ANDERSON: Well, but see, there is a population  
11 on AFDC that is long-term and generational. That is not  
12 everybody on AFDC.

13          You have a lot of women who come onto AFDC because  
14 they're in crisis. They just got a divorce; somebody got sick  
15 in their family, a variety of reasons for people to fall on  
16 AFDC. They come, and they get off pretty rapidly.

17          But you've got another group of people on AFDC, about  
18 54 percent of the population, who come on as teen moms, and they  
19 stay. Their mothers were teen moms and on AFDC, and they're  
20 going to produce teen moms and be on AFDC. That population is  
21 long-term and generational.

22          SENATOR PETRIS: That's 54 percent of what? Of your  
23 total roll?

24          MS. ANDERSON: Of the AFDC population, about.

25          SENATOR PETRIS: That's the first time I've heard  
26 that figure. Can you get me the --

27          MS. ANDERSON: Yes.

28          SENATOR PETRIS: -- details on that?



1 MS. ANDERSON: Yes.

2 And we have these two -- two populations here. And  
3 what I think is very interesting is that single head of  
4 households, mothers who head households, 58 percent of them are  
5 not on AFDC. So you've only got 42 percent of this total  
6 population of single head of households who are on AFDC.

7 And the way we do it, we treat these two populations  
8 very differently. And what usually -- and what we see is that  
9 these 58 percent of these single moms work low paying jobs, some  
10 work two jobs, but they're not on AFDC. And they do all the  
11 expectations. They're really carrying it out. These women pay  
12 taxes, income taxes, and a lot of those women are the ones who  
13 are irate about AFDC, because they see women over here who are  
14 in the same circumstances they are in who are being treated  
15 totally different. Why?

16 SENATOR PETRIS: They're not the ones that are  
17 talking to me, the ones that are irate that you mention.  
18 They're not the ones that are talking to me.

19 MS. ANDERSON: Probably not the ones --

20 SENATOR PETRIS: The ones talking to me are the  
21 average citizens out there and some business people who are sick  
22 and tired of having the "bulk", the majority of people on AFDC  
23 for three generations.

24 MS. ANDERSON: Okay.

25 SENATOR PETRIS: And that's what I describe as a  
26 mythology.

27 MS. ANDERSON: You don't think that's true?

28 SENATOR PETRIS: No. None of the reports up to now



1 -- I invite you to give me any reports over the last 20 years  
2 from California that show that the bulk of people who go on the  
3 welfare program, including AFDC, stay there for three  
4 generations.

5 All the reports I've seen talk about an average of  
6 less than two years, without exception, over the last several  
7 years.

8 Now, all of a sudden, I'm hearing that 54 percent are  
9 on for three generations?

10 MS. ANDERSON: No, no, no. I said 54 percent of them  
11 were teen parents. Those, that group of teen parents --

12 SENATOR PETRIS: Oh, you're just talking about teen  
13 parents --

14 MS. ANDERSON: But they come on as teen parents.  
15 They stay long-term. Usually their mom was a teen parent.  
16 Usually their mom was on AFDC.

17 SENATOR PETRIS: What percentage of the total is  
18 that?

19 MS. ANDERSON: Of the teen parents?

20 SENATOR PETRIS: No, of the whole welfare population,  
21 AFDC population.

22 MS. ANDERSON: Is the teen parent. They represent 54  
23 percent of the AFDC population who came on as teen parents and  
24 who are still on the grant.

25 SENATOR PETRIS: And for how long is their average on  
26 welfare?

27 MS. ANDERSON: It's a lot longer than the ones who  
28 come in with -- who are married, and separated, and divorced.







1           SENATOR PETRIS: Can you give me an idea? Is it ten  
2 years, twenty years, two generations, three?

3           MS. ANDERSON: We did a longitudinal study which we  
4 will share with you, and in that we showed that -- when we  
5 looked at the AFDC population, about half of them had been on  
6 over five years.

7           SENATOR PETRIS: Over five years?

8           MS. ANDERSON: Over five years, and that sort of --  
9 if we pull this other group aside and push them over here, this  
10 group over there is the long-term group.

11          SENATOR PETRIS: And they're the teenagers?

12          MS. ANDERSON: They're the ones who came on probably  
13 when they were very young, unmarried.

14          You've got distinct populations in here, and I think  
15 what happens a lot is, we try to mix these populations up and  
16 make them one.

17          You have women who come on AFDC, and families with  
18 husbands in them, who come on AFDC, and they really only need it  
19 temporarily. They use it as a temporary means, and they get on.  
20 They come on, and they stay a month.

21          Well, a person who stays a month is going -- is going  
22 to make your statistics look different than the person -- as  
23 compared with the person who stays ten years. So, the month  
24 offsets the ten years, so you start to go down to an average.

25          So, you have a lot of people who use this for what it  
26 was originally intended to, which was a temporary crisis  
27 program.

28          SENATOR PETRIS: What percentage are the short-term



1 users?

2 MS. ANDERSON: A little less than 50 percent of them.

3 SENATOR PETRIS: Now, let me go back to the rates.

4 Have you had an opportunity to study the rates and study  
5 conditions in our society to see how they match up?

6 MS. ANDERSON: We've been looking at the projections  
7 of caseload, what's going on, trying to figure out what's  
8 happening.

9 We don't quite know all the answers, but we're  
10 searching for what made the different between what's actually  
11 happening and what we had projected. We try to do that every  
12 time new information comes in, so we're constantly paying  
13 attention to this caseload.

14 SENATOR PETRIS: How about the specific grant level?

15 MS. ANDERSON: Well, we looked at how people -- how  
16 much people pay for rent.

17 SENATOR PETRIS: Yes.

18 MS. ANDERSON: And I don't have the exact figures off  
19 of my head, and John may have them, but what we noticed is what  
20 people actually do in terms of renting is very different than  
21 what had been projected what they'd do for rent. So, their  
22 behavior out -- there is a thing in California called fair  
23 market value for housing, and people were -- had been saying to  
24 the Department that what people were getting in terms of their  
25 grant was too low, and if they took the cuts it was too low;  
26 they weren't going to be able to find housing.

27 When we looked at our study in terms of what people  
28 actually paid for rent, it was much lower than that.



1           So, yes, we do pay attention to what happens when we  
2 do anything in the program. We try to pay attention to what's  
3 the impact of that.

4           SENATOR PETRIS: Is that across the board around the  
5 state, people paying lower than they anticipated?

6           MS. ANDERSON: I believe yes.

7           SENATOR PETRIS: You see, the last time I went into  
8 this at confirmation hearings, the answer was, "Well, they live  
9 with relatives," so they're really paying a lot less.

10          Now you're telling me they're actually paying less.  
11 I'd invite you to check the metropolitan newspapers, classified  
12 ads for housing accommodations: Sacramento, San Francisco Bay,  
13 L.A., San Diego. See what kind of figures you see there for,  
14 you know, for a women with two children, an apartment.

15          MR. HEALY: Senator, what we did do, we basically  
16 looked at the Census Bureau, the 1990 Census Bureau data and  
17 information, and we looked at the bottom quartile of rents being  
18 paid by community throughout the entire state. And part of it,  
19 the basis for the review was what Eloise was speaking to.

20          Another part of it was to respond to the Legislature  
21 -- and we're still doing that. We're still doing the staff  
22 analysis on it -- but respond to the Legislature's interest,  
23 expressed interest, in this past year of having a regional grant  
24 structure. And so, we are looking at, using the Census Bureau  
25 data, we're looking at the bottom quartile of rents paid for  
26 every community across the state to see whether or not there is  
27 any logical break, if you will, between them.

28          I don't know how logical the break is, but it's a







1 fairly steady -- steady incline, and you can probably guess the  
2 ones that are on the top.

3 SENATOR PETRIS: Well, I'm looking at some figures  
4 here. The maximum aid payment for a family of three, 1988-89,  
5 actual grant \$663; after six months it was the same. And it  
6 goes back to -- that's the latest year -- no, it doesn't. It  
7 goes up to '89-90, and down to '93-94 proposed.

8 Now, this is the entire payment.

9 MS. ANDERSON: But that's only the cash grant.  
10 Remember, a family gets AFDC. They get medical and they get  
11 food stamps.

12 SENATOR PETRIS: They don't get clothing allowance.  
13 They don't buy shoes with that.

14 And my suggestion to you is, if you check the rental  
15 ads either through a local broker in different communities or  
16 the classified ads, for a family of three, you're not going to  
17 find very many accommodations that only cost \$600 a month for a  
18 family of three. That'll leave them \$63 for all the rest of  
19 their needs that aren't covered by the food --

20 MS. ANDERSON: But there are two things that we  
21 really are trying to do with this program. One is that we  
22 recognize that it takes two people to raise a child in a  
23 society. One is to get the mother into a position where she  
24 works, and to get the father in a position where he pays child  
25 support. Those two incomes combined should take the family out  
26 of poverty through this.

27 This program, when it was designed in the 1930s, was  
28 not designed to be a long-term living arrangement for a family.



1 It was only meant to help them in a crisis.

2 We've got to find some way to help these families,  
3 mom and dad, where ever they are, together or not, to be able to  
4 work together for their kids in a different way than looking at  
5 the state to try to pick up all this long-term.

6 SENATOR PETRIS: Well, a lot of these families of  
7 three are a mom and two children, and dad isn't around.

8 MS. ANDERSON: Yeah, but we've got a real effort in  
9 the Child Support side --

10 SENATOR PETRIS: I'm aware of that.

11 MS. ANDERSON: -- trying to bring the fathers here.

12 We know from a lot of data, not only in California  
13 but across the country, when dads put their part on the table,  
14 and moms work with this, that the family doesn't need AFDC any  
15 longer.

16 SENATOR PETRIS: That's right, but that's not a very  
17 big number compared to the total. It's a worthwhile effort, I  
18 know. The state has even taken the lottery winnings from some  
19 lucky absentee father. I hope they keep on doing it.

20 But I'm trying to look at the general experience of  
21 women who are single parent families with one child or two or  
22 three. Well, okay, this subject can go on.

23 That's the extent of my questioning.

24 Thank you, Mr. Chairman.

25 CHAIRMAN ROBERTI: Thank you, Senator.

26 Are there any other questions?

27 Is there anyone in the audience who wishes to testify  
28 either in support? Okay, in support. Please come forward.



1 MS. CROSLY: My name is Faye Crosley. I'm from  
2 Richmond, California, and I also am a mother. I also have a  
3 group home for children in Richmond.

4 In answer to Senator Petris, there are a lot of jobs  
5 in Richmond. They're not that good a jobs. I mean, they're  
6 like first level. They're McDonald's, Wendy's, car washes, the  
7 group homes need help. We're always needing help, you know.

8 We belong to an association that advocates for  
9 children, and that --

10 SENATOR PETRIS: Excuse me.

11 Are you saying you can support a family with two  
12 children on McDonald's wages?

13 MS. CROSLY: No, but what I'm saying --

14 SENATOR PETRIS: Those are high school kids' jobs.

15 MS. CROSLY: What's I'm saying is, my daughter is  
16 not a high school -- they got in a bad tight, and her husband is  
17 in the service, and she needed a job. And she supplemented  
18 their income by working at Burger King.

19 SENATOR PETRIS: Okay, but she has a floor. She has  
20 a floor of a federal job.

21 MS. CROSLY: Okay, are you going to let me finish?

22 SENATOR PETRIS: But the McDonald's pays minimum  
23 wage.

24 MS. CROSLY: I know, but sometimes you have to take  
25 those entry-level jobs, and then you have job stability. If you  
26 stay there a year -- and I've seen a lot of people do this --  
27 then you have something to take to -- to tell the next employer,  
28 because they're not interested in hiring you if you don't have







1 experience. If you have shown you're punctual, and you're  
2 reliable, then you can move on, and you have to start.

3 Now, I'll also say that there are a lot of jobs that  
4 may be second level. If you -- clerical, receptionists, you  
5 know? I know there's been a lot of layoffs and things, but I  
6 know a lot of people around me in churches and in our  
7 organization and things, and they have taken this entry level.

8 Now, I'm glad to know that there is going to be a  
9 change in that AFDC, because in some of the children that we  
10 have, and I know a lot of families that are five generation  
11 children, you know, five generation families that have been on  
12 AFDC, you know. They're all over San Francisco, and they don't  
13 have -- haven't had any incentive to work, you know. And a lot  
14 of minds have been lost in the black community because they --  
15 if they work, if they do a few hours, then it's taken from them.  
16 Why work?

17 But I'm glad to hear that there is something before  
18 the Floor that's going to allow them to work that won't penalize  
19 them, and then they can start using their minds, you know, for  
20 things that's going to really help --

21 SENATOR PETRIS: Well, you know we had that in the  
22 past. We had the working poor. And they were able to keep  
23 their grant and earn up to a certain amount, until Ronald Reagan  
24 entered the White House, and he says, "Why are we paying people  
25 who are on welfare?" And he destroyed the program. It hasn't  
26 really been restored since. These are the first moves in that  
27 direction.

28 In the meantime, as I told the new Director, there's



1 an awful lot of pain out there.

2 MS. CROSLY: Another thing, yeah, I remember,  
3 because I've been around since the '60s and, you know, '50s,  
4 too, coming up, and they used to help with baby sitters. I  
5 mean, there was all kinds of things that -- that would help you.

6 So, I'm hoping that, you know, there'll be a lot  
7 of change to -- to help people, because there are a lot of  
8 people that really want to work, you know, and want to have a  
9 good life.

10 Now also, I'd like to say, according to what you were  
11 saying about rentals. There's a lot of -- I'm also in real  
12 estate, and there are a lot of Section 8 around. And people,  
13 like I work for Bartels, and they have a list. And usually on  
14 that list, it's a rental list, there are a lot of Section 8  
15 apartments. My own daughter just got in the city apartments.  
16 She's got a two bedroom apartment for \$300 a month.

17 So, and then there's also a program that will allow  
18 you to, you know, buy a home. You know, I mean, there's  
19 incentive, and where there's a will, there's a way, and with  
20 Legislators like we have now that's going to, you know, help  
21 these programs come along, I'm looking forward, you know, to a  
22 lot of improvement.

23 I also would like to say that being in Richmond,  
24 discrimination was just rampant as a group home provider. I  
25 mean, I've operated a group home for three years and never got a  
26 child from my own county. Although, you know, the drug problem  
27 there is -- is pretty bad. It wasn't until Ms. Anderson came in  
28 -- I mean, it was just like there was no hope; it was pointless.



1 So many homes had to close up.

2 And I will be writing you, you know, about our  
3 concerns and things. But it wasn't until Ms. Anderson was  
4 appointed, and all of a sudden, we got hearings. I mean,  
5 somebody wants to hear us, you know. That was really showing  
6 that there's some concerns now. We can voice -- you know, we  
7 went to the hearings, and we were allowed to voice our concerns.  
8 That's a big step. Somebody is listening. That really meant a  
9 lot to the community that we could come and tell all of the  
10 things that had been going on. You know, whereas the black  
11 child had been used as a commodity only.

12 So, you know, we're -- I'm really happy to see the  
13 Governor showing some concern and putting people in. I mean,  
14 there's changes in Contra Costa County, as you're aware of.  
15 There's been transfers, and people that are listening to us and  
16 seem to care about us, and this is new. And, you know, we  
17 really appreciate it.

18 CHAIRMAN ROBERTI: Thank you.

19 Next.

20 MR. SIMMONS: Thank you. I'm Al Simmons, speaking,  
21 representing the African-American Foster Care and Group Home  
22 Association.

23 We are glad to see change. Change in Social Services  
24 is always welcome, because we seem to have had a continuing war  
25 going on between the black community, the black grandparents,  
26 the black foster care folk, and the group home people, primarily  
27 because we were not involved at the decision-making level of  
28 anything that had to do with the welfare of our kids.







1           It looks like now we're going to have a shot at it,  
2 you know, and except that we worry about how much time does it  
3 take for our bureaucracy to change, you see.

4           Although we -- I think we're very supportive and  
5 expect great things from Eloise and John, we know we're going to  
6 have to do some pushing.

7           In 1940, Franklin Roosevelt told us, "I'd like to do  
8 it, but I can't. Politically I can't. But if you go out there  
9 and make me do it, I will." That's when the first March on  
10 Washington in 1940 that you folks don't know about was  
11 cancelled, because Executive Order 8802 was reported at the  
12 NAACP meeting that he was going to issue it Monday morning, so  
13 the March on Washington was called off, and 8802 changed the  
14 military. Allowed me to go into the Navy, and people go into  
15 positions that they would not have done, an opportunity they  
16 would not have had, had that not happened.

17          So, we're going to be pushing them, because we know  
18 nothing fundamental is changing unless we make it change. And  
19 as long as we have officials who are prepared for change, and  
20 when we ask for access to our kids, when our kids make up 75  
21 percent of the system, you see, we deserve that. We deserve  
22 some input. We deserve at least first crack at them before you  
23 send them to the -- what we call the warehouse, and this kind of  
24 thing.

25          So, I'm saying to, I guess, Eloise and John, we do  
26 expect to hold their heels to the fire. We do expect some  
27 change. We do expect our youngsters, black youngsters  
28 particularly, and brown youngsters, to have access to their own



1 people before they send them to strangers in far away places.  
2 And if we can -- the sooner we can do that, the closer we can  
3 move toward improving the outlook for the black family,  
4 certainly in the State of California, and certainly in Alameda  
5 County, and all of the Northern California counties, because  
6 they're all experiencing these same things.

7 I'm talking about grandparents having access their  
8 their grandkids. I mean, it's just a crime. In fact, I guess I  
9 got about a dozen grandmothers, you know. You think -- I don't  
10 know, it's just unbelievable some of the things that we've  
11 allowed to happen to grandparents who traditionally, in minority  
12 families, support the total family, support the extended family.  
13 They are the backbone.

14 So, I hope that when we begin leaning on them, and  
15 you, too, Nick, you know, we're going to get the kind of  
16 response that will not make us wait two years to see progress.  
17 We ought to be able to see it next week, the week after, and so  
18 on.

19 Thank you very much.

20 CHAIRMAN ROBERTI: Thank you very much.

21 Anyone else in support? Please come forward.

22 REV. MURPH: Senator Roberti and the other Committee  
23 Members, my name is Frederick O. Murph. I'm the Senior Minister  
24 of the First African Methodist Episcopal Church in Oakland.

25 Governor Wilson had called me some time ago when he  
26 was looking for a Director of the Department of Social Services  
27 for the State of California, wanting to know if I had a  
28 suggestion as to someone that could do a job and be sensitive to



1 all the constituents of the State of California. He looked high  
2 and low, and at one point in time, he even asked me if I was  
3 interested.

4 I have a congregation of 1200 individuals, and that's  
5 headache enough, so therefore, I didn't take the suggestion.

6 But I was very happy to find out that he had found a  
7 young woman, Eloise Anderson, brought her into the State of  
8 California. I was impressed with the fact that after she was  
9 appointed, two weeks later, she met with myself, along with  
10 other community leaders, to try to get a feel for what the  
11 concerns were in our community.

12 One of the main beefs that most people have had about  
13 the State Department of Social Services is the fact it's been an  
14 invisible institution. People as if it doesn't exist in terms  
15 of addressing particular needs.

16 And what I see today is, I see hope. As we think  
17 about South Los Angeles, as we think about the Rodney King  
18 verdict, we think about the various communities throughout this  
19 state, people are hurting.

20 And I believe that Eloise Anderson represents hope.  
21 When people feel hopeless, you have a dangerous individual on  
22 your hands.

23 So, we have to somehow or another bring about a sense  
24 of hope and help people to understand that Social Services  
25 aren't about a free handout. And I'm an African-American saying  
26 that. But it's about helping an individual over the hump.  
27 Helping them to become a productive member of society.

28 And I support full heartedly the Governor's effort at







1 least to try to make an attempt to get people off AFDC, to get  
2 people to not become reliant upon a social system, and to use it  
3 as a temporary fix to help them become productive members of  
4 society.

5 And I support wholeheartedly Eloise Anderson to be  
6 the Director of the Department of Social Services for the State  
7 of California.

8 Thank you.

9 CHAIRMAN ROBERTI: Thank you very much.

10 MR. MSEMAJI: Mr. Chairman and Members, my name is  
11 Ken Msemaji from the United Domestic Workers of America.

12 It's one of these opportunities where I am sincerely  
13 pleased to be here today to talk on behalf of both of these  
14 people.

15 As you will recall, for some years now, a decade or  
16 so, I have been driving you crazy, you and your staffs, with  
17 coming, complaining about the State Department of Social  
18 Services did this and did that and did the other.

19 Your earlier hearing with regard to the whole  
20 regulatory process, and how you'll pass legislation, and the  
21 regulations end up doing something else with it that you didn't  
22 have in mind. I can recall times when the bureaucracy not only  
23 went against the intent of the Legislature, but went against the  
24 intent of their own chief executive who had appointed them.

25 So, I'm no fan of bureaucrats. However, I am very  
26 pleased to report that Eloise Anderson and John Healy, after all  
27 of these years, makes me believe that there is a little hope  
28 after all, because they are bureaucrats, but they are sensitive,



1 they are serious, and they have an inordinate amount of  
2 compassion that I've observed when they leave this Capitol and  
3 go out into various parts of the state to meet with people, to  
4 listen to them, to talk to recipients of services and providers  
5 and their families.

6           Senator Roberti had asked early on about In-Home  
7 Supportive Services, which, as you know, that is all I do. And  
8 in that area, you all have been very good on a bipartisan level  
9 to protect it as much as you can over these last four or five  
10 drastic years. During these last couple of years, I'm glad  
11 we've had people like these two here to help facilitate between  
12 all of us and our concern when there's not enough money.

13           I remember just before Governor Deukmejian left, some  
14 of the people in the Department were proposing to take all  
15 family members who were providing In-Home Supportive Services  
16 off altogether and not pay them, and they had a few other  
17 preposterous notions like that, unbeknownst to Governor  
18 Deukmejian. I remember that Senator Beverly, I think, was  
19 quoted in the paper as saying that he was ready to raise the  
20 issue of override if any of that kind of thing came to pass.

21           Well, with these people, what we find is that they  
22 are hurting like I'm hurting, like you hurt everytime you deal  
23 with the budget questions. They are trying to figure ways to  
24 minimize the pain. They are trying to come up with new  
25 approaches that can allow us to hold on to what we've had until  
26 something else changes and gets better.

27           I'm impressed also because they are extremely candid  
28 and truthful, which I haven't had the pleasure of meeting many



1 bureaucrats to do that, be straightforward and truthful, instead  
2 of playing games and out-slicking you. They will argue their  
3 points of view forthright, but when you argue back yours, they  
4 listen. Sometimes they change if you present a better argument.  
5 They're willing to experiment.

6           They're willing to be flexible, but most of all, they  
7 are accessible. I catch them both there, 7:00 and 8:00 o'clock  
8 in the evening on many occasions. I catch them there early in  
9 the morning. We invite them to come meet IHSS recipients and  
10 their home attendant employees around the state, and they come.

11           I think that under the circumstances that we face  
12 today, while we all don't agree with anybody else that we know,  
13 and I certainly don't agree with everything that the Department  
14 has to say, but I think that after having been here during  
15 Governor Brown, and Governor Deukmejian, and now this Governor,  
16 I hope we can hold on to these people for as long as possible.  
17 They have actually made a difference, and there is a marked  
18 change in the operation of that Department now than it was just  
19 a few years ago. They actually believe their job is to serve  
20 the public. They think the intent of the Legislature is  
21 important, and they want to follow that. All of these things I  
22 never saw in previous administrations.

23           So, I urge with everything that I can for you to  
24 confirm them and to continue to work with them. Senator Petris,  
25 get them over there with those answers. They have a lot of good  
26 ideas that could help some of the things that you've been  
27 helping us with for years.

28           Thank you very much for this opportunity.







1 CHAIRMAN ROBERTI: Thank you very much.

2 Is there anyone in opposition? Oh, excuse me, I'm  
3 sorry.

4 MS. DUFOUR: Thank you, Mr. Chairman, Members of the  
5 Committee.

6 My name is Vivianne Dufour, and I am the President of  
7 the League of United Latin American Citizens, known as LULAC.  
8 I'm here to testify in favor of the confirmation of Ms. Anderson  
9 and Mr. John Healy, as the Chief -- Director of the Department  
10 of Social Services and the Chief Deputy of the Department of  
11 Social Services.

12 We feel that not only these two individuals are  
13 extremely well qualified, as you could hear from their  
14 testimony in terms of all the professional experience that they  
15 have had behind, but they're also very personable in terms of  
16 management style, and authentically very interested in the human  
17 being behind the system.

18 Ms. Eloise Anderson has instituted an open-door  
19 policy and successfully has contributed to improve the  
20 communications among all the sectors involved in the Social  
21 Services field, and I am very encouraged to see that their style  
22 has carried the message of hope to those working in the  
23 Department as well as those associated with all the program of  
24 the Department.

25 I believe that Ms. Anderson and Mr. Healy have  
26 demonstrated also enormous considerable courage by opening up  
27 the positions of the division chiefs within the Department of  
28 Social Services to all sectors with the intent of making it more



1 representative of the diversity of the population of California.  
2 As a result, Ms. Anderson has hired three Afro-Americans and two  
3 Hispanics to be part of the executive staff of the Department.  
4 This commitment to affirmative action and civil rights clearly  
5 has been demonstrated.

6 Thank you.

7 CHAIRMAN ROBERTI: Thank you very much.

8 MR. WHITFIELD: Good afternoon, Senators. My name is  
9 Jacques Whitfield, and I am the Corporate Counsel for J.J.  
10 Friendship Homes, Incorporated, which is a Sacramento-based  
11 group home. I'm also one of the Corporate Counsel for AMARCH,  
12 which is the Association for Minority Adolescents in Residential  
13 Care Homes.

14 We're here this afternoon very briefly to support the  
15 confirmation of Eloise Anderson. We applaud the Governor for  
16 finding someone who is an African-American female. Indeed, both  
17 of my clients are primarily concerned with the treatment of  
18 minority homes -- minority health care providers, particularly  
19 in the group home industry. And we applaud the fact that  
20 someone has been appointed who is culturally sensitive to the  
21 needs of all the people, particularly my client base.

22 We believe that California's strength is in its  
23 diversity, and we need people who recognize this fact and who  
24 will use that as a strength as opposed to a weakness.

25 Everyone here has said a lot about hopes. I won't  
26 belabor that.

27 I'm in the business of facts, and getting the best  
28 results for my clients. I believe that Hope is a little town in



1 Arkansas.

2           So indeed, we want -- it's my clients' position that  
3 we want results. We hope that this is more than a cosmetic  
4 change, that what's going on here is a fundamental change in the  
5 nature of DSS. And we hope that with these appointments and  
6 confirmations that we'll definitely see that.

7           Thank you very much for your time.

8           CHAIRMAN ROBERTI: Thank you very much.

9           Anyone here in opposition?

10          Do I hear a motion?

11          SENATOR CRAVEN: Move Ms. Anderson.

12          CHAIRMAN ROBERTI: Senator Craven moves Eloise  
13 Anderson.

14          And do you also move John Healy?

15          SENATOR CRAVEN: I will if I may.

16          CHAIRMAN ROBERTI: Very good, so moved, both at the  
17 same time.

18          SENATOR CRAVEN: Very well.

19          CHAIRMAN ROBERTI: Director of the Department of  
20 Social Services, and John Healy, Chief Deputy Director,  
21 Department of Social Services.

22          Secretary will call the roll.

23          SECRETARY WEBB: Senator Ayala.

24          SENATOR AYALA: Aye.

25          SECRETARY WEBB: Ayala Aye. Senator Beverly.

26          SENATOR BEVERLY: Aye.

27          SECRETARY WEBB: Beverly Aye. Senator Petris.

28          SENATOR PETRIS: Aye.





1 SECRETARY WEBB: Petris Aye. Senator Craven.

2 SENATOR CRAVEN: Aye.

3 SECRETARY WEBB: Craven Aye. Senator Roberti.

4 CHAIRMAN ROBERTI: Aye.

5 The vote is five to nothing; confirmation is  
6 recommended to the Floor.

7 Congratulations.

8 MS. ANDERSON: Thank you.

9 [Thereupon a brief recess was taken.]

10 CHAIRMAN ROBERTI: The Senate Rules Committee will  
11 come to order.

12 We have now before us the appointment of Mr. John R.  
13 Banuelos, Director of the Department of Boating and Waterways.

14 Senator Pat Johnston is here to introduce him.

15 SENATOR JOHNSTON: Thank you, Mr. Chairman and  
16 Members.

17 John Banuelos has been a friend of mine for a dozen  
18 years. I got to know him first when he served as the Director  
19 of the California Conservation Corps program that is located in  
20 Stockton at the Stockton Developmental Center, the Delta  
21 Program.

22 Over the years, as you'll note, John came from being  
23 a police officer, to work with the CCC, and moved up rapidly  
24 through the ranks. And his skill as a person of organization,  
25 dedication, and integrity, and service to the people of the  
26 State of California has a long and distinguished history.

27 I just plain like him a lot, and I recommend him to  
28 you.



1 CHAIRMAN ROBERTI: Thank you very much, Senator.

2 I heard Mr. Banuelos's oration at Assemblyman  
3 Collins's Memorial, and needless to say -- I mean, I hate to say  
4 the word, but we enjoyed it. I mean, it was a beautiful  
5 tribute, and I just thought I would mention that.

6 MR. BANUELOS: Thank you, sir.

7 CHAIRMAN ROBERTI: It says something about you, too.

8 SENATOR JOHNSTON: One final word.

9 I'd say that the Department of Boating and Waterways  
10 has, from time to time, been under attack. I think it's a small  
11 but important agency that is lean and capable of performing  
12 services to the public and recreational boaters and marina  
13 owners in California, and is worth keeping, but it will only  
14 prove its worth with strong leadership. It's had that sometimes  
15 in the past, not always. It does now.

16 I represent a large portion of the Delta, so I'm  
17 familiar with that agency's work, and it is good. And under  
18 John's leadership, getting better. So, I commend him to you.

19 CHAIRMAN ROBERTI: Thank you, Senator.

20 Mr. Banuelos, we'll ask you why you feel you're  
21 qualified to assume this position?

22 MR. BANUELOS: Thank you, sir.

23 Mr. Chairman and Members, good evening. I will cover  
24 briefly my background in state government and public service.  
25 Prior to that, I'd like to make a statement.

26 I was born and raised in San Diego, California.  
27 Married with two children, and I'd like that -- and I'd also  
28 like you all to know that both of my children, my son and my



1 daughter, are both graduates of colleges: one Davis and the  
2 other San Diego. And my daughter will be a teacher in two  
3 months, and I'm very proud of that.

4           What makes me qualified as Director of the Department  
5 of Boating and Waterways. It would be my administrative and  
6 management experience.

7           After I served in the U.S. Army from 1965 to 1968, I  
8 worked for the City of San Diego, for the County, as a lead  
9 person for the Public Works Department, and than as a San Diego  
10 police officer.

11           Following that, I was hired by the State of  
12 California and by the California Conservation Corps. I was a  
13 Project Coordinator for a short time, a period of four months,  
14 then for six months I was reassigned as the CCC Training Academy  
15 Director up in San Luis Obispo, California. I directed  
16 approximately 45 civil service staff at that time, about 380-400  
17 Corps members. I directed, planned, organized, all aspects of  
18 the training at the Academy, set policy, procedure and programs.

19           In May of 1978, I was appointed Center Director of  
20 the CCC Center in Camarillo, California, a little over a year.  
21 I managed and directed all Center operations for 20 staff and 80  
22 Corps members, with a 24-hour live-in residential facility.

23           From June of 1979 to October of 1981, I was promoted  
24 by Mr. B.T. Collins, the Director, as Regional Deputy for both  
25 Region 1 and Region 2 as we were opening up centers throughout  
26 the state. At that time, I directed 125 civil servants and  
27 personnel or Corps members to the number of about 600. I opened  
28 up 12 new centers within the CCC throughout the State of







1 California at that time.

2 From November of 1981 to February of 1984, I was  
3 selected by Jack Dugan at the time as Deputy Director, an exempt  
4 position of Field Operations for the California Conservation  
5 Corps. This included under my umbrella 325 civil servants and  
6 over 1800 Corps members. There were 25 CCC centers throughout  
7 the state at that time. I also had the help of three regional  
8 deputies with their assistance under my umbrella.

9 From February, 1983 to December of 1982 [sic], I was  
10 the District Director for the Sacramento-San Joaquin Center  
11 located in Stockton, California. At that time I had 25 staff  
12 and a total of 155 Corps members.

13 So, I guess when you ask what makes me qualified, I  
14 would say that my administrative and my management background.  
15 Other qualifications that I feel that I have, I feel that I have  
16 leadership ability. I lead by example. And I learn by doing  
17 and working with the civil servants.

18 I have a lot of common sense, I feel, and I make  
19 decisions, and I'm responsible for the decisions of the  
20 Department. I surround myself with good, qualified staff.

21 People have asked me in the past why such a change  
22 from Boating -- or, CCC to Boating and Waterways? About 14  
23 years ago, I came to Sacramento, and at that time I listened to  
24 a lady talk at a conference. Her name was Marty Mercado. And  
25 at that time, I was very impressed with her, and I just didn't  
26 pick the Department because it was a small department, or it  
27 dealt with boating and waterways or recreational boating. I  
28 felt like she was a role model to me, and luckily I was chosen



1 as Director of the Department in December.

2 I have a lot of experience in working with a lot of  
3 different entities, like CDF, DWR, other agencies within the  
4 Resource Agency, or other departments within the Resource  
5 Agency, excuse me.

6 I have a real deep appreciation and respect for the  
7 civil service personnel in the state, because I was a civil  
8 servant for over 20 years and consider myself still to be a  
9 civil servant.

10 I'm a good motivator of staff, and I inspire them to  
11 do their best. And morale within the Department, or any  
12 department, is real important to me.

13 I know the civil service system because I've been in  
14 it for 20 years. I feel that I'm a hard worker, a problem  
15 solver, and a believer in quality in government.

16 I take full responsibility for the Department while  
17 it's under my watch. I take this position very seriously as  
18 Director and want the people of the state to know that I am a  
19 custodian for the Department, and they can rest assured that any  
20 action that I take will be one that I feel serves the best  
21 interests of the State of California. And also, the Department  
22 is a friendly department, or a user-friendly department.

23 I've only been with the Department a little over  
24 three months. And in that time, I have been impressed with the  
25 staff and the Department's reputation throughout the state. I  
26 intend to continue to live up to the reputation that the  
27 Department has.

28 These are some of the reasons and qualifications I



1 feel that I bring to the Department. I feel that I'm -- I'm  
2 trying to be creative within the Department. It's a small  
3 department. There's only 65 budgeted positions, and I'm only  
4 working with 50 positions right now, and I have no intention to  
5 fill all the positions at the Department because of the budget  
6 cuts.

7 So, I feel that total quality management, or that's  
8 what we're leading to in the State of California, is real  
9 important to me, because I think that if I can inspire and get  
10 the staff to do more than one job, that's a goal of mine, and  
11 that they have to serve not only one purpose at that Department,  
12 but maybe a couple of services in that Department.

13 That's why I feel I'm qualified for this position.

14 CHAIRMAN ROBERTI: Thank you, Mr. Banuelos.

15 Are there any questions?

16 Is there anyone here in opposition?

17 I think you're going to get off easy.

18 Do I hear a motion?

19 SENATOR BEVERLY: Move we recommend confirmation.

20 CHAIRMAN ROBERTI: Senator Beverly moves the  
21 confirmation be recommended to the Floor.

22 Any discussion on the motion? Secretary will call  
23 the roll.

24 SECRETARY WEBB: Senator Ayala. Senator Beverly.

25 SENATOR BEVERLY: Aye.

26 SECRETARY WEBB: Beverly Aye. Senator Petris.

27 SENATOR PETRIS: Aye.

28 SECRETARY WEBB: Petris Aye. Senator Craven.







1 Senator Roberti.

2 CHAIRMAN ROBERTI: Aye.

3 SECRETARY WEBB: Roberti Aye.

4 SENATOR BEVERLY: May we keep the roll open?

5 CHAIRMAN ROBERTI: We'll keep the roll open for  
6 Senator Ayala, but there are three votes.

7 Congratulations.

8 MR. BANUELOS: Thank you very much.

9 SENATOR BEVERLY: Move the call be lifted.

10 CHAIRMAN ROBERTI: Senator Beverly moves that the  
11 call be lifted.

12 Secretary will call the roll on Banuelos.

13 SECRETARY WEBB: Senator Ayala.

14 SENATOR AYALA: Aye.

15 SECRETARY WEBB: Ayala Aye.

16 CHAIRMAN ROBERTI: The vote is four to nothing;  
17 confirmation's recommended to the Floor.

18 [Thereupon this portion of the  
19 Senate Rules Committee hearing  
20 was terminated at approximately  
21 5:15 P.M.]

22 --oo0oo--  
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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 16<sup>th</sup> day of April, 1993.

  
EVELYN J. MIZAK  
Shorthand Reporter





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27                   Evelyn J. Mizak  
28                   Shorthand Reporter



1                                    APPEARANCES

2                                    MEMBERS PRESENT

3        SENATOR DAVID ROBERTI, Chair

4        SENATOR WILLIAM CRAVEN, Vice Chair

5        SENATOR RUBEN AYALA

6        SENATOR ROBERT BEVERLY

7        SENATOR NICHOLAS PETRIS

8                                    STAFF PRESENT

9        CLIFF BERG, Executive Officer

10       PAT WEBB, Committee Secretary

11       RICK ROLLENS, Consultant on Bill Referrals

12       NANCY MICHEL, Consultant on Governor's Appointments

13                                   ALSO PRESENT

14       GERALDO FELANDO, D.D.S., Member  
15       Youthful Offender Board

16       LINDA ANN FRICK, Member  
17       Agricultural Labor Relations Board

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INDEX

	<u>Page</u>
Proceedings . . . . .	1
<u>Governor's Appointees:</u>	
GERALD FELANDO, D.D.S., Member Youthful Offender Parole Board . . . . .	1
Background and Experience . . . . .	1
Motion to Confirm . . . . .	2
Questions by SENATOR AYALA re:	
Parole Violators . . . . .	2
Suggestions to Reduce Recidivism . . . . .	2
Discretion of Judge to Try Individual as Adult or Juvenile . . . . .	4
Budgetary Constraints to Programming . . . . .	4
Questions by SENATOR PETRIS re:	
Suggestions for Improvement of System . . . . .	5
Prevention . . . . .	6
Committee Action . . . . .	7
LINDA ANN FRICK, Member Agricultural Labor Relations Board . . . . .	8
Background and Experience . . . . .	8
Questions by SENATOR AYALA re:	
Delays in County Election Ballots . . . . .	10
Request for Data on Average Time for Election Results . . . . .	11
Motion to Confirm . . . . .	11
Committee Action . . . . .	12
Termination of Proceedings . . . . .	12
Certificate of Reporter . . . . .	13



## P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN ROBERTI: Governor's appointees, Gerald Felando, Member of the Youthful Offender Board. Please come forward, Assemblyman.

We'll ask you what we ask all the Governor's appointees, why you feel you're qualified to assume this position, even though we know you.

DR. FELANDO: I'm sorry?

CHAIRMAN ROBERTI: Why you feel you're qualified to assume this position, even though we know you.

DR. FELANDO: Probably a very, very good question.

I think that my years in the Legislature prepared me for this job more than anything, especially dealing with the issues, the very issues, that I'm sitting now implementing with the youthful offenders.

CHAIRMAN ROBERTI: Are there any questions of Dr. Felando?

Well, I think this is a good appointment, and we're glad to see --

DR. FELANDO: Thank you, Senator.

CHAIRMAN ROBERTI: -- that the Governor appointed you, and I think you'll do a good job, and you have a good history of working with everyone in the Legislature to solve problems.

Senator Beverly.

SENATOR BEVERLY: We're going to make it this easy?

CHAIRMAN ROBERTI: You're his Senator. It's your job



1 to make it hard.

2 SENATOR BEVERLY: Not withstanding a possible  
3 conflict, I'm pleased and happy to recommend him for  
4 confirmation.

5 CHAIRMAN ROBERTI: Senator Beverly moves.

6 Is there any opposition in the audience?

7 SENATOR AYALA: Can I ask him a question?

8 CHAIRMAN ROBERTI: Senator Ayala.

9 SENATOR AYALA: Mr. Felando, what percentage of  
10 incarcerated wards are parole violators? Do you know that?

11 DR. FELANDO: We have --

12 SENATOR AYALA: I have a Youth Authority in my  
13 district, and I visit it, and it's always, you know, breaking at  
14 the seams.

15 How many of those people are there --

16 DR. FELANDO: Well, I think recidivism is -- is  
17 somewhere between 50 and 70%, depending on where they're located  
18 and what you're counting. So, 50%.

19 SENATOR AYALA: Fifty percent?

20 DR. FELANDO: Yes.

21 SENATOR AYALA: What do you attribute that to? What  
22 can we do at the Authority level to try to lower that number?

23 DR. FELANDO: You know, I'll answer that, and I think  
24 that all you Senators, you've known me for a long enough time  
25 that I'm going to give you the straight shot as I see it. It  
26 may not be accurate, but as I see it.

27 Quite frankly, we need more programming with the  
28 wards that -- that we are dealing with and that we are paroling.





1 Many times, we run out of commitment time, and we don't have a  
2 choice but to parole them. That doesn't necessarily mean that  
3 they're ready. Because of lack of funds, the ward did not see  
4 -- receive the proper programming while he was with us.

5 SENATOR AYALA: You have a lot of vocational  
6 programs.

7 DR. FELANDO: Not enough, Senator.

8 SENATOR AYALA: Not enough?

9 DR. FELANDO: No. We're sending people out there  
10 that are not qualified to have jobs. Some of them can't read or  
11 write, but it's the same story, and we need some money to  
12 correct that.

13 I would be more than happy to at some time sit down  
14 with you personally and really go through it, because I do have  
15 some ideas. Having only been there four months, I have a  
16 picture of -- of what's going on and what we need.

17 SENATOR AYALA: They at one time had what they called  
18 midway or homes for these people, Youth Authority in my area,  
19 and so they put them in these motels with a swimming pool, and  
20 all these good things, big t.v. screens.

21 Well, this is not the real world, you know. And they  
22 came from an environment that was nothing like that. I just  
23 wonder if that was a good program to put them in that kind of an  
24 environment, and then, when they get discharged, they go back to  
25 whatever they came from. So, I don't know what that  
26 accomplished at all. It was just before they got discharged,  
27 they put them in there for a period of time.

28 DR. FELANDO: I would much rather see that kind of



1 money put into programs so that when we do parole a ward, he's  
2 able to go -- he or she is able to go out and get a job and  
3 become a contributing member to society. And oftentimes, we're  
4 not doing that.

5 SENATOR AYALA: You know, I introduced a bill ten  
6 years ago that allows the judge on a juvenile offender, if they  
7 committed a real serious crime, that the judge, with input from  
8 the Probation Department and, I think, the District Attorney's  
9 Office, would make a ruling whether this individual would be  
10 tried as an adult or as a juvenile, if he was 15 or 16 years  
11 old, whatever it was.

12 Is that working as far as you're aware, give the  
13 judge the discretion to determine whether --

14 DR. FELANDO: The judge in many cases has that kind  
15 of discretion as to whether they're going to be tried as a  
16 juvenile or an adult.

17 I think in many cases, we're trying -- we're trying  
18 these individuals as juveniles and they should be tried as  
19 adults and go to the CDC rather than the Youth Authority.

20 The nature of -- of the crime, committing offenses,  
21 has changed dramatically in the last ten years. And I think  
22 that we ought to go back and take a look at what we're dealing  
23 with. The violent crime has increase ten-fold, but we haven't  
24 addressed that. The Legislature has not addressed that.

25 SENATOR AYALA: Over population has an effect on the  
26 programs that you have for them. There's not enough money to  
27 take care of all these --

28 DR. FELANDO: That's right, and I'm not saying





1     incarcerate them. I'm saying program them.

2             I think, you know, we need those programs out there  
3     to help these individuals.

4             SENATOR AYALA: They can be very useful, because they  
5     go out into the community and do a lot of work, sometimes, with  
6     the people who are not one of those rough characters, and they  
7     do a lot of good work. At one time, they built a home, put it  
8     on skids and sold it. That was one of their programs.

9             And then they've got welding, and metal shop, shoe  
10     repairing --

11            DR. FELANDO: We still have those programs, we just  
12     need more, because we've got more wards to deal with.

13            SENATOR AYALA: Thank you.

14            CHAIRMAN ROBERTI: Any further questions? Senator  
15     Petrus.

16            SENATOR PETRIS: I realize you've only been there a  
17     short time, but if I were to ask you as a former Legislator who  
18     deals with problem solving, have you been there long enough to  
19     be able to tell us what ought to be done to improve the  
20     situation there, whether it's the Board, or the personnel, or  
21     the budget, or anything about it do you feel already at this  
22     early date really cries out for improvement?

23            DR. FELANDO: Yes, I can address that.

24            And I would think that the number one issue, if I  
25     could do it, you know, just wave a magic wand, would be to make  
26     all the programs that are available uniform throughout the  
27     system. We have -- we have issues now where we know what a ward  
28     needs, but then we have a problem finding an institution for him





1  
2 that doesn't have a waiting list that's so long that the ward  
3 will never get the program that he needs.

4 I would make those programs uniform throughout the  
5 system so that each institution would have that program.

6 Then I would go back, and I would emphasize education  
7 and vocational training with -- and I know you're all going to,  
8 maybe, chuckle a little bit -- with tremendous emphasis on self-  
9 esteem, which I find lacking in the Y.A. right now. They really  
10 don't teach these wards self-esteem, and I can't emphasize that  
11 strongly enough.

12 I think that -- but then, see, Senator, we're talking  
13 about money. And we come in with our budget, and Y.A. comes in  
14 with their budget, and the first thing that the hearing chairman  
15 says to us is, "Well, show us where we can cut 15% from your  
16 budget."

17 Well, I don't know that you can do that with the  
18 youth of the State of California any longer. If you're going to  
19 turn these wards out without the proper programming, they're  
20 destined to failure. And what you're doing is creating a  
21 revolving door. We're letting them out because of time  
22 constraints and bed space, and they just do a circle and come  
23 back in the other end on a new offense.

24 SENATOR PETRIS: What about prevention before they  
25 ever get into that situation?

26 DR. FELANDO: By the time they get to Y.A., they've  
27 had numerous -- and I'm talking maybe five, six, seven, eight  
28 different chances and eight different programs in the various  
counties. Granted, some of the counties don't have the programs



1 that L.A. County has, for instance, but I would, yeah, I'd place  
2 more emphasis on prevention, you bet.

3 SENATOR PETRIS: Would that be in the public schools?  
4 Where do we try to mold the youngsters to be more productive?

5 DR. FELANDO: How about some outreach programs for  
6 the parents as soon as the kids start going bad?

7 SENATOR PETRIS: Some what?

8 DR. FELANDO: Outreach programs for the parents. A  
9 lot of -- a lot of times, the wards are there because the  
10 parents didn't care enough, or didn't know what they were  
11 supposed to do.

12 SENATOR PETRIS: Or often don't even know what the  
13 kids are doing.

14 DR. FELANDO: Correct.

15 SENATOR PETRIS: Okay, thank you.

16 CHAIRMAN ROBERTI: Any further questions?

17 Secretary, call the roll.

18 SECRETARY WEBB: Senator Ayala.

19 SENATOR AYALA: Aye.

20 SECRETARY WEBB: Ayala Aye. Senator Beverly.

21 SENATOR BEVERLY: Aye.

22 SECRETARY WEBB: Beverly Aye. Senator Petris.

23 SENATOR PETRIS: Aye.

24 SECRETARY WEBB: Petris Aye. Senator Craven.

25 SENATOR CRAVEN: Aye.

26 SECRETARY WEBB: Craven Aye. Senator Roberti.

27 CHAIRMAN ROBERTI: Aye.

28 The vote is five to nothing; confirmation is



1 recommended to the Floor.

2           Congratulations.

3           DR. FELANDO: Thank you.

4           CHAIRMAN ROBERTI: Linda Ann Frick, Member of the  
5 Agricultural Labor Relations Board.

6           MS. FRICK: Hello.

7           CHAIRMAN ROBERTI: Ms. Frick, we'll ask you the same  
8 question: why do you feel you're qualified to assume this  
9 position on the ALRB?

10          MS. FRICK: Thank you, Mr. Chairman and Senators.

11          I know you don't know me like you know Mr. Felando.  
12 My background is in law. I've been practicing for 20 years, for  
13 ten years in private practice, and I've been in government for  
14 approximately ten years.

15          SENATOR CRAVEN: Linda, put that mike a little closer  
16 to you, please.

17          MS. FRICK: I'll start from scratch.

18          My background is in law. I've been practicing for 20  
19 years. I've represented clients, argued on their behalf. I  
20 have had opportunities to sit in positions where I've had to  
21 listen to adversaries disagree and then make a decision. I've  
22 also had opportunities to render advice to lots of clients.

23          I guess in particular, for ten years I had a private  
24 practice in Bakersfield. During that time it was a typical  
25 private practice in the '70s. I did defense criminal work, both  
26 adult and juvenile. I did lots of plaintiff civil work in the  
27 typical things such as divorces and bankruptcies. I appeared in  
28 a lot of different administration forums as well as in state







1 courts.

2 During that time, I also volunteered a lot, and I had  
3 a couple of different positions I'll mention. One was, I was a  
4 Kern County Civil Service Commissioner for about four years.  
5 And during that time not only did we work with the union and the  
6 County to help resolve routine issues, but the Commission had  
7 not yet delegated its responsibility of conducting hearings to  
8 an ALJ, and so, the Commission itself conducted the hearings.  
9 For the year I was Chair, I was responsible for conducting the  
10 hearings as well as the meetings.

11 I also served on the board for several years of the  
12 Greater Bakersfield Legal Assistance.

13 For the last ten years, I've been with the  
14 government. In the different positions I've had, I've learned  
15 an awful lot about state operations. I've learned about some  
16 very specific subject matters that I can get into, but they're  
17 in my resume, and if you have any questions, I can go into them.

18 For the last eight months, as you know, I've been  
19 with the Agricultural Labor Relations Board. Even after 17  
20 years, that Board is still being presented with very significant  
21 and novel issues. When I was appointed, I was appointed as  
22 the third member, and three members are required to do any  
23 business at all. And so, I've been involved with all of the  
24 decisions for the last eight months, whether they were decisions  
25 or administrative orders, the litigation that's been ongoing.  
26 And I basically had to hit the ground running, because there was  
27 no chance to just be broken in to it.

28 I think I've been learning the law as the issues have



1 come up. I certainly am familiar with how to do some of my own  
2 research.

3 From the time I've been there during the last eight  
4 months, it appears that the role of a Board member is to present  
5 a forum to all of the parties where they can come, present their  
6 point of view on the evidence and the law, and be heard. Then  
7 it's up to me to make a decision and to render a fair and  
8 impartial one for the people of the State of California.

9 I just -- I feel that the breadth of the experience  
10 I've had, the different procedural forums I've worked in, the  
11 number of clients that I've represented, has enabled me to be  
12 able to do this job in a very adequate way, so I would ask for  
13 your support.

14 CHAIRMAN ROBERTI: Thank you.

15 Are there any questions? Senator Ayala.

16 SENATOR AYALA: Ms. Frick, in terms of the delays in  
17 counting ballots, I understand that's quite a prolonged project.

18 Why does it take so long, and what are we doing to  
19 expedite the returns as quickly as possible on elections?

20 MS. FRICK: I don't oversee that directly, but since  
21 I have been there, we've been kept informed of when the  
22 petitions are filed for elections and when the elections occur.  
23 And it appears at this point that any -- the elections -- the  
24 ballots have been counted promptly, that we are being advised of  
25 the tallies almost immediately. And except for possible delays  
26 because regional directors just simply do not have the time in  
27 light of their other responsibilities to get to it, the  
28 challenge ballot reports are coming out timely, if there are





1 challenge ballot reports. Otherwise, they are being counted  
2 timely.

3 And I will check when I go back and determine that.

4 SENATOR AYALA: What is the average time? Are you  
5 aware of what is the average time it takes to announce the  
6 results after the election's held? Do you have any information  
7 like that?

8 MS. FRICK: No, I don't, actually.

9 SENATOR AYALA: Would you get it?

10 MS. FRICK: I was under the impression it was almost  
11 immediate, and I'm going to go back and find out.

12 SENATOR AYALA: I've been told it takes quite a  
13 while, and I don't understand the delays.

14 MS. FRICK: I actually don't either. I appreciate  
15 that.

16 CHAIRMAN ROBERTI: Any other questions?

17 Is there any opposition in the audience?

18 SENATOR CRAVEN: Move Ms. Frick.

19 CHAIRMAN ROBERTI: Senator Craven moves Ms. Frick's  
20 confirmation be recommended to the Floor.

21 Secretary will call the roll.

22 SECRETARY WEBB: Senator Ayala.

23 SENATOR AYALA: Aye.

24 SECRETARY WEBB: Ayala Aye. Senator Beverly.

25 SENATOR BEVERLY: Aye.

26 SECRETARY WEBB: Beverly Aye. Senator Petris.

27 SENATOR PETRIS: Aye.

28 SECRETARY WEBB: Petris Aye. Senator Craven.





1 SENATOR CRAVEN: Aye.

2 SECRETARY WEBB: Craven Aye. Senator Roberti.

3 CHAIRMAN ROBERTI: Aye.

4 The vote is five to zero; confirmation's recommended  
5 to the Floor.

6 Congratulations.

7 MS. FRICK: Thank you very much, Senators.

8 [Thereupon this portion of the  
9 Senate Rules Committee hearing  
10 was terminated at approximately  
11 2:24 P.M.]

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I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 29<sup>th</sup> day of April, 1993.

  
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APPEARANCES

MEMBERS PRESENT

SENATOR DAVID ROBERTI, Chair

SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR RUBEN AYALA

SENATOR ROBERT BEVERLY

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

KAREN L. McELLIOTT, Member  
Medical Board of California  
Division of Medical Quality

LAWRENCE D. DORR, M.D., Member  
Medical Board of California  
Division of Medical Quality





INDEXPage

Proceedings . . . . .	1
<u>Governor's Appointees (Appearing Together):</u>	
KAREN McELLIOTT, Member Medical Board of California Division of Medical Quality	
Background and Experience . . . . .	1
LAWRENCE D. DORR, M.D., Member Medical Board of California Division of Medical Quality	
Background and Experience . . . . .	3
Questions by CHAIRMAN ROBERTI re:	
Case Dumping, Reasons for It and Plans to Deal with It . . . . .	5
Response by DR. DORR . . . . .	5
Response by MS. McELLIOTT . . . . .	6
Number of Pending Disciplinary Cases . . . . .	6
Question of DR. DORR by SENATOR CRAVEN:	
Stader Splint . . . . .	8
Motion to Confirm Both Appointees . . . . .	9
Committee Action . . . . .	10
Termination of Proceedings . . . . .	10
Certificate of Reporter . . . . .	11



## P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN ROBERTI: Now we have Governor's appointees appearing today. I think we can bring them up at the same time. Lawrence D. Dorr, Member of the Medical Board of California, Division of Medical Quality, and Karen L. McEllriott, Member of the Medical Board of California, Division of Medical Quality.

Why don't you both come forward, and we will ask you both what we ask all Governor's appointees, why you feel you're qualified to assume these positions.

Whichever one of you wants to go first gets to go first.

MS. McELLIOTT: Well, I have a statement to make.

CHAIRMAN ROBERTI: Very good.

MS. McELLIOTT: I will read it to you. I'm not as extemporaneous, I think, as Dr. Dorr, so if you'll bear with me while I read my comments.

First of all, I want to thank you, honorable Chairman and distinguished Senators, for the opportunity to be here. And I first of all would like to take this occasion to thank Senator Roberti and his staff for selecting me in 1987 to fill the public member vacancy to the State Board of Podiatric Medicine.

CHAIRMAN ROBERTI: Very good.

MS. McELLIOTT: From that experience, I realized the value of these boards to the consumers.

During my tenure, the Podiatry Board made some incredible strides towards protecting the consumer, establishing



1 a more efficient response time to consumer complaints. It was  
2 also this board which initiated and persevered in concert with  
3 the Medical Board's staff to create an effective quality control  
4 matrix for the Medical Board and the Divisions of Allied Health.  
5 This has become an invaluable tool to track the process of  
6 consumer complaints.

7 I also had the honor to be the first president and  
8 the first public member to be president of the Board of  
9 Podiatric Medicine as it is structured today.

10 The experience acquired from my years on these  
11 medical-related boards -- on this medical-related board has  
12 proven to be significant during my brief few months on the  
13 Division of Medical Quality. I am proud to have the opportunity  
14 to be among the select few that can be a part of the government  
15 system that is dedicated to fulfilling the mission established  
16 by the Department of Consumer Affairs and the Medical Board, and  
17 that is protect the consumer through the proper use of licensing  
18 and enforcement that is delegated to us by the State  
19 Legislature.

20 The Medical Board is under some extraordinary  
21 scrutiny at the present time, but we are making great strides in  
22 re-evaluating our past performance, and we as a board are  
23 determined to provide quality medical care and efficient,  
24 expeditious enforcement for all Californians. The successful  
25 Medical Board Summit held in March was an illustration of the  
26 board's commitment to the Legislature and the consumers to be  
27 the best we can possibly be.

28 My role as a member on the Medical Board, and





specifically on the Division of Medical Quality, is to discipline medical doctors who practice below the standard of care, set general policy, and oversee the enforcement of -- and oversee the enforcement program. An awesome responsibility, a challenge I accept without hesitation or bias.

It is with pride that I sit before you today, and it would be an honor to continue to serve the public as a member of the Medical Board of the State of California.

CHAIRMAN ROBERTI: Thank you, Ms. McElliott.

Dr. Dorr.

DR. DORR: Thank you.

Again, honored Chairman and distinguished Senators, it certainly is my pleasure to be here today.

I feel that I'm qualified for this position because of the experience and the knowledge that I have in the medical field. I'm an orthopedic surgeon. I have through the years been involved in all aspects of medicine, which I believe has increased my ability to serve the State of California well.

On a local level, I have been in private practice in Los Angeles with the Kerlan-Jobe Clinic, which is -- has some renown as a sports clinic. I presently am at USC, where I'm established in our Arthritis Clinic. I subspecialize in the area of arthritis surgery, and I do only total joint replacement, and I've had the distinct honor of being able to design a total hip replacement and a total knee replacement that's used for patients across the country, so I understand some of the business aspects of medicine from that.

I teach at USC, so I understand some of the academic



1 aspects of medicine because of that.

2 I'm the founding editor of the Techniques of  
3 Orthopedics Journal, and I'm a founding editor of the Journal of  
4 Arthroplasty, so that I'm distinctly involved in the education  
5 of orthopedics. I was a founding member of the Knee Society and  
6 President of the Knee Society for the United States, and I was  
7 one of the founding members and the first chairman of the  
8 Government Relations Committee for the Association of Arthritis  
9 Hip and Knee Surgeons, so that I have had some experience  
10 working in these medical problems and working with government  
11 agencies. And I will be President of the Association of Hip and  
12 Knee Surgeons in two years.

13 Because of my experience in all these different  
14 aspects of medicine, I believe I understand a good deal about  
15 what the problems are at this time in health care. I believe I  
16 understand what a lot of the problems are at this time in regard  
17 to the conflicts between the consumer and the doctor, and I  
18 believe that I have some good ideas in ways that we can improve  
19 on those. And I believe that with the Medical Board being in  
20 the turmoil that it has had simply because of a lot of the press  
21 that it's had over the past few months, that it's an ideal time  
22 for participation in this board and the ability to direct the  
23 medical care for the consumers of California in a direction in  
24 which it becomes the best in the nation.

25 And I'm focused on that particular aspect of service,  
26 and I must say that it's an absolute thrill for me, with all the  
27 recognition that I have been lucky enough to achieve in  
28 medicine, to have the opportunity to serve my state on this



1 board, and I appreciate the opportunity for your consideration.

2 Thank you.

3 CHAIRMAN ROBERTI: Thank you very much, Doctor.

4 One of the big issues that the press has covered  
5 quite extensively has been the issue of case dumping. I guess  
6 that's the --

7 DR. DORR: That's what it's been called.

8 CHAIRMAN ROBERTI: -- designation for it, right.

9 So, what specific plans do either of you have to deal  
10 with it, and what have been the reasons for it? Is it just too  
11 much work for the board, or a lack of proper management of these  
12 kinds of cases, or not enough jurisdiction, or slovenliness?  
13 What's been the reason?

14 DR. DORR: Well, Chairman, I think that the CHP  
15 Report has obviously -- has been made available, and I think  
16 there were a lot of aspects of that report that were taken out  
17 of context. And I'm not sitting here and saying that the  
18 Medical Board did everything right and the Report's wrong, but a  
19 lot of that was taken out of context. There were cases that  
20 were inappropriately handled. Those are being re-reviewed at  
21 this time.

22 Because of that Report, and because of some of the  
23 direction, I think, that has been -- that has occurred through  
24 the Department of Consumer Affairs, the Medical Summit was held,  
25 as Karen mentioned, about a month ago. And I think there was a  
26 lot of good, influential work done at that Summit.

27 But I think that -- and at that Summit, by the way,  
28 assuming that my appointment is confirmed, I was -- I was







1 appointed as the chair for the Committee for the Task Force to  
2 study the enforcement process and to try and detail that in a  
3 more efficient and in a more aggressive manner so that we don't  
4 have the same problems about which you speak, and that people  
5 who are accused are able to have their -- the adjudication of  
6 their case done quickly and efficiently and in a fair manner.  
7 And that will happen, I can assure you, because I always have  
8 been in a situation where I can make decisions, and I enjoy  
9 responsibility, and I'm not adverse to making hard decisions to  
10 make change, and there will be change made along that line.

11 So, I think that if you give us a little bit of time,  
12 since we're rookies, if you let us get into the ball game, we  
13 can play it.

14 CHAIRMAN ROBERTI: Thank you.

15 How about you, Ms. McElliot?

16 MS. McELLIOTT: I agree. I mirror the comments of  
17 Dr. Dorr.

18 I think our biggest concern is to make sure that we  
19 regain the confidence of the public in the Medical Board, and I  
20 am also going to be a part of that Task Force that Dr. Dorr is  
21 chairing, and I look forward to seeing us move -- move forward.

22 CHAIRMAN ROBERTI: About how many disciplinary cases,  
23 roughly, are pending right now?

24 DR. DORR: That are pending at what level? There's  
25 two different levels.

26 You see, there's the cases that are in front of the  
27 administrative law judge, and that's one level of cases. And  
28 those have already been determined that they should be



1 prosecuted. There's a separate set of cases below that level;  
2 they're in the investigative phase. Those cases are -- a  
3 decision will be made as to whether or not they are going to be  
4 sent on to the ALJ.

5 The average number of cases the last two years has  
6 been in the range of 900. The average number per year --

7 CHAIRMAN ROBERTI: Nine hundred per year?

8 DR. DORR: Yes. The average number, I think, or the  
9 number, I think, that was -- or close to the number that the ALJ  
10 had to handle last year was like 128, in that area. So, there's  
11 difference cases at different levels.

12 What we need to do is not necessarily that we can  
13 speed up the ALJ cases, because once they get into the court,  
14 they're in the court, and the lawyers and the judges are going  
15 to determine the rate at which that prosecution occurs.

16 But we need to speed up the complaint process and  
17 make the complaint process easier for the consumer, make the  
18 complaint process more efficient once it's occurred so that we  
19 can determine if it's a truly valid complaint, and if so, that  
20 it's moved on into the investigative stage. And when it's in  
21 the investigative stage, we need to be able to, at that point in  
22 time, move that case on into a final determination stage,  
23 whatever that may be. And we're going to increase the number of  
24 options that are available for enforcement so that we can take  
25 care of some of these things much more swiftly and fairly for  
26 both the consumer and the doctor.

27 CHAIRMAN ROBERTI: Thank you.

28 Any other questions of the members of the board by



1 the Members here?

2 SENATOR CRAVEN: Let me just ask.

3 CHAIRMAN ROBERTI: Senator Craven.

4 SENATOR CRAVEN: Doctor, before you were born there  
5 was a development known as the Stader Splint.

6 Do they still have a Stader Splint? Do you know what  
7 I'm talking about?

8 DR. DORR: I've heard of a Stader Splint, but you're  
9 right, it was before I was born, and I think they used it for  
10 CDH, if I'm not correct.

11 SENATOR CRAVEN: Say that again?

12 DR. DORR: I think they used it for CDH. Wasn't it a  
13 splint that they used for CDH?

14 SENATOR CRAVEN: They developed it for animals.

15 DR. DORR: Yeah.

16 SENATOR CRAVEN: It was developed by a veterinarian  
17 from Linwood, Pennsylvania.

18 DR. DORR: Named Stader, right?

19 SENATOR CRAVEN: Yes, Dr. Stader.

20 CHAIRMAN ROBERTI: I'll bet you didn't think you were  
21 going to be asked that question.

22 [Laughter.]

23 DR. DORR: No.

24 SENATOR CRAVEN: I may be the only fellow today  
25 that'll ask that question.

26 DR. DORR: You may be the only person in my life  
27 that'll ask that question.

28 [Laughter.]





1           SENATOR CRAVEN: Well, it was somewhat discomfoting  
2 to me when I looked at your date of birth and found out that  
3 that was developed before you were here.

4                           [Laughter.]

5           SENATOR CRAVEN: So, it developed before you did.

6           But I appreciate that. I hadn't thought of that for  
7 a long time, but when you said your background as an orthopod, I  
8 thought, well, you know, he's got to know about it.

9           DR. DORR: I have heard of it. I can tell you it's  
10 back there in the computer, but I'm glad I didn't get that asked  
11 on my oral examination for the boards.

12                          [Laughter.]

13           SENATOR CRAVEN: I used to pass that doctor's place  
14 of business going to school, and that's how I know. I can  
15 remember my father telling me what an innovative thing that was,  
16 to put something through a bone and put it together, and  
17 whatever.

18           But that's just my pleasure today to talk to you, and  
19 I'm happy to have that response.

20           DR. DORR: It's my pleasure. Thank you.

21           SENATOR CRAVEN: I would be very happy to move.

22           CHAIRMAN ROBERTI: Senator Craven moves both Dr. Dorr  
23 and Ms. McEllriott be recommended to the Floor for confirmation  
24 as members of the Medical Board of California, Division of  
25 Medical Quality.

26           Is there any opposition in the audience?

27           Secretary will call the roll.

28           SECRETARY WEBB: Senator Ayala.



1 SENATOR AYALA: Aye.

2 SECRETARY WEBB: Ayala Aye. Senator Beverly.

3 SENATOR BEVERLY: Aye.

4 SECRETARY WEBB: Beverly Aye. Senator Petris.

5 SENATOR PETRIS: Aye.

6 SECRETARY WEBB: Petris Aye. Senator Craven.

7 SENATOR CRAVEN: Aye.

8 SECRETARY WEBB: Craven Aye. Senator Roberti.

9 CHAIRMAN ROBERTI: Aye.

10 CHAIRMAN ROBERTI: The vote is five to zero;

11 confirmations are recommended, Dr. Dorr and Ms. McElliott.

12 MS. McELLIOTT: Thank you very much.

13 DR. DORR: Thank you very much.

14 [Thereupon this portion of the  
15 Senate Rules Committee hearing  
16 was terminated at approximately  
17 2:33 P.M.]

18 --oo0oo--  
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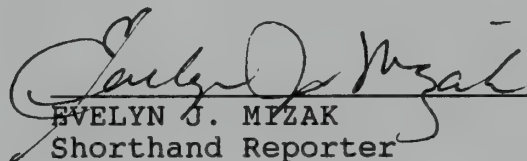
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 6<sup>th</sup> day of May, 1993.

  
EVELYN J. MIZAK  
Shorthand Reporter









1 SENATE RULES COMMITTEE  
2 STATE OF CALIFORNIA  
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8 HEARING  
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12 STATE CAPITOL  
13 ROOM 113  
14 SACRAMENTO, CALIFORNIA  
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18 WEDNESDAY, MAY 12, 1993  
19 2:05 P.M.  
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25 Reported by:  
26

27 Evelyn J. Mizak  
28 Shorthand Reporter



APPEARANCES

MEMBERS PRESENT

SENATOR DAVID ROBERTI, Chair

SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR RUBEN AYALA

SENATOR ROBERT BEVERLY

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

DANIEL APODACA, Member  
California State Lottery Commission

SENATOR TOM HAYDEN

MARK DAVIS, Sales Manager  
Commerce Printing

ADRIAN PEREZ, Vice President  
Capital Cities Chapter  
Personnel Management Association of Aztlan





INDEXPage

Proceedings . . . . .	1
<u>Governor's Appointees:</u>	
DANIEL APODACA, Member California State Lottery Commission . . . . .	1
Questions by CHAIRMAN ROBERTI re:	
Circumstances for Contract Extensions . . . . .	1
Amount of Money Paid to GTECH over Life of Current Contract and Percentage Considered Profit for GTECH . . . . .	2
Comparison to Former Contract . . . . .	2
Total Sales Generated during GTECH's Past Contract . . . . .	3
Concerns Raised by GORDON JONES re: RFP . . . . .	3
Conversion Time Too Short . . . . .	3
Were All Concerns Raised by MR. JONES Addressed by Final Draft of RFP . . . . .	4
MR. JONES' Satisfaction with Final Result . . . . .	4
Allegation of Destruction of Crucial Documents Establishing Favoritism to Successful Bidder . . . . .	5
Investigation by Attorney General . . . . .	5
Governor's Review Panel on Recent On-line Procurement . . . . .	5
Lottery's Response to Governor's Concerns	6
Review and Documentation . . . . .	6
Significant Multiple Year Contracts . . . . .	6
Use of Outside Consultants . . . . .	7
Total Cost of Contract . . . . .	7



INDEX (Continued)

Negotiated Contract's Relationship to Cost of Contract . . . . .	8
Vendor's Costs as Aspect of Contract . . .	8
Points Raised in Governor's Letter Already in Place . . . . .	10
Potential Legal Action by Unsuccessful Bidders to Recent On-line Contract . . . . .	11
Factors Used to Determine California Got a Good Deal with Recent On-line Contract . . . .	12
Use of Criteria to Compare California Contract against Other State Contracts . .	13
Attendance at All Lottery Meetings . . . . .	13
Return of Old Lottery Equipment . . . . .	14
Conditions under which Current Contract Might Be Amended and Authority To Do So . . . .	14
Current Amended Contract for Keno . . . . .	15
How GTECH Became Sole Source Contract . . . . .	16
Allegations that Other Bidders Did Not Have Sufficient Time . . . . .	16
Extension of Time Framme . . . . .	17
Services Contracted with Batelle Memorial Institute . . . . .	18
Batelle's Relationship to GTECH . . . . .	18
Questions by SENATOR AYALA re:	
Amount of Money GTECH Received in First Five Years under Original Contract . . . . .	19
Considered Part of Operating Expenses . . .	19
SENATOR TOM HAYDEN . . . . .	19
Failure of Commission to Ensure Competition in Bidding of Contracts . . . . .	20



INDEX (Continued)

Memos of GORDON JONES Expressing Strong Reservations about Extension of Six Months for Conversion Time . . . . .	21
Memo Re: Current Procurement Strategy . . .	22
Governor's Letter and "Troubling Questions" about Lottery's Ability to Conduct Major Procurements . . . . .	24
Limitations of Governor's Review Panel . .	24
Current Contract Is Largest Contract in California's History . . . . .	25
Governor's "Troubling Questions" Justification to Re-open Process . . . . .	25
Response by CHAIRMAN ROBERTI re: Recent Court Decision on Confirmations . . . . .	25
Need for Investigation at All Levels on Competency Question . . . . .	26
Response by CHAIRMAN ROBERTI . . . .	26
Attendance at All Commission Meetings . . . . .	26
Appointee's Lack of Knowledge as to Whether Staff Made Comparisons with Other States . . . .	27
April 21 Memo to Commission by DIRECTOR SHARP .	27
Economic Model Used in Negotiating Contract Is Lower than Actual On-line Sales . . . .	28
Lack of Discussion at Public Meeting re: Lottery Giving GTECH 10,000 Upgraded Computer Terminals . . . . .	28
Nominee's Vote on Batelle Sole Source Contract	28
Batelle's Projections Failed to Materialize . . . . .	29
Lottery Received only One Bid on Master Contract with GTECH . . . . .	29





INDEX (Continued)

Questions to MR. APODACA by CHAIRMAN ROBERTI re:

Sole Source Contract with Batelle . . . . .	30
Instances where Deloitte-Touche Have Performed Similar Functions . . . . .	31
Nominee's Vote for Contract that Involved Keno . . . . .	31
Master Contract in Effect for Services Only . . . . .	32
Purchase Contract for Equipment Did Not Go Out to Competitive Bid . . . . .	32
Amendment to Contract Allowed GTECH to Design and Operate a System that only GTECH Could Access . . . . .	32
Failure of Commission to Ensure Competition . .	33

Statements by CHAIRMAN ROBERTI re:

MR. CRAMER's Failure to Attend Meetings . . . .	33
Duty of Commission to Try to Get as Much Competition as Possible . . . . .	34
Does Not Appear to be Dereliction of Duties or Malfeasance . . . . .	34

Witness with Concerns:

MARK DAVIS, Sales Manager Commerce Printing . . . . .	34
Work with High Integrity Systems to Produce Manual . . . . .	35
Conflicting Instructions from Lottery . . . . .	35
Frustration with Lack of Direction . . . .	36
Electronic Test Unit to Have Been Tested Last November . . . . .	36
Pattern of Commission is Chaos . . . . .	37



INDEX (Continued)

Pattern of Rubber-stamping Director's Wishes . .	37
Secret Meeting to Cancel Contract . . . . .	38
Responses by MR. APODACA . . . . .	38
Testing of Units . . . . .	39
Closed Meeting, not Secret Meeting . .	39
<u>Witness in Support:</u>	
ADRIAN PEREZ, Vice President Capitol Cities Chapter Personnel Management Association of Aztlan . . . . .	40
Motion to Confirm . . . . .	41
Committee Action . . . . .	42
Termination of Proceedings . . . . .	42
Certificate of Reporter . . . . .	43



P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN ROBERTI: We now have before us the appointment of Daniel Apodaca, Member of the California State Lottery Commission.

Mr. Apodaca, could you please come forward, and thank you for coming.

Mr. Apodaca, since you were last heard in the Senate Rules Committee, some questions have arisen regarding the most recent contract regarding the GTECH company. So, we have some questions, and in processing your nomination, we feel that these important questions haven't been adequately answered.

The current on-line vendor for the California State Lottery is the GTECH Corporation. Its contract is for four years and three one-year extensions will expire in October of this year.

Could you tell me under what circumstances are contract extensions granted by the Lottery?

MR. APODACA: Under what circumstances, normally extensions are granted on bigger contracts such as the on-line gaming system that we're speaking of here.

The advantage of the contract extension is that at the end of the five years in this case, the Lottery's in a position to negotiate a more favorable cost rate with the vendor GTECH.

CHAIRMAN ROBERTI: So, the basis is a more favorable cost rate with the vendor?





1 MR. APODACA: That's correct.

2 CHAIRMAN ROBERTI: What amount of money has been paid  
3 to GTECH over the life of the current contract, and what  
4 percentage of that amount would be considered profit for GTECH?

5 MR. APODACA: The negotiated percentage is 2.895 of  
6 gross sales.

7 CHAIRMAN ROBERTI: 2.895?

8 MR. APODACA: Yes, sir.

9 CHAIRMAN ROBERTI: What percent of that would you  
10 consider GTECH profit?

11 MR. APODACA: I have no idea what their profit  
12 structure is, but it's estimated that they will be paid  
13 approximately \$203 million during the five-year period.

14 CHAIRMAN ROBERTI: Give me that again?

15 MR. APODACA: \$203 million during the five-year  
16 period.

17 CHAIRMAN ROBERTI: \$203 million over the five-year  
18 period.

19 MR. APODACA: This compares with \$270 million that  
20 has been paid to them under the existing contract that expires  
21 in October of this year.

22 CHAIRMAN ROBERTI: How much as of October?

23 MR. APODACA: 270 million.

24 CHAIRMAN ROBERTI: Has already been paid?

25 MR. APODACA: Yes.

26 CHAIRMAN ROBERTI: And over the next five-year  
27 period, you anticipate 203 million?  
28



1 MR. APODACA: About 203, as I recall.

2 CHAIRMAN ROBERTI: While GTECH has had the past  
3 contract, what have been the total sales generated during the  
4 contract?

5 MR. APODACA: Approximately \$9 billion.

6 CHAIRMAN ROBERTI: On April 21st of this year, the  
7 Lottery Commission awarded the new on-line contract to the GTECH  
8 company. GTECH was the only company that chose to submit a bid  
9 for the procurement. There's been a lot of press interest and  
10 interest from other very interested parties that has focused on  
11 certain memos written by Mr. Gordon Jones of the Lottery finance  
12 unit during the preparation of the RFP.

13 Could you explain at what stage of the RFP process  
14 were Mr. Jones' concerns raised about the contract process?

15 MR. APODACA: Mr. Jones is the chief of the financial  
16 section of the Lottery. He raised the question of sufficient  
17 time to conduct the conversion and implementation of the new  
18 system. In his opinion, it was too short.

19 CHAIRMAN ROBERTI: And what is his position again?

20 MR. APODACA: The original draft for the Request for  
21 Proposal called for a four-month conversion period. He wrote a  
22 memo that stated in his opinion, four months was too short.

23 CHAIRMAN ROBERTI: Why did he say four months was too  
24 short?

25 MR. APODACA: I don't know.

26 I may add that the Evaluation Committee that worked  
27 and developed the Request for Proposal, did all the leg work in  
28



1 acquiring this bid, also came to the same conclusion, that four  
2 months appeared to be too short. As a result of this, the time  
3 period was extended to six months.

4 CHAIRMAN ROBERTI: Did the Evaluation Committee make  
5 any judgment as to the six months then?

6 MR. APODACA: Yes, they did.

7 CHAIRMAN ROBERTI: Was that sufficient time for them?

8 MR. APODACA: Yes.

9 CHAIRMAN ROBERTI: How about Mr. Jones?

10 MR. APODACA: He was satisfied with six months.

11 CHAIRMAN ROBERTI: When did the six months run, until  
12 what date?

13 MR. APODACA: I believe through -- it should be up  
14 and running on October the 14th, when the present contract  
15 expires.

16 CHAIRMAN ROBERTI: Were all the concerns raised by  
17 Mr. Jones, any others besides the time, the shortness of time,  
18 were all the questions that Mr. Jones addressed in his letter  
19 addressed by the final draft of the RFP?

20 MR. APODACA: They were all satisfied.

21 CHAIRMAN ROBERTI: Was Mr. Jones, in your mind,  
22 totally satisfied?

23 MR. APODACA: Yes, he was.

24 CHAIRMAN ROBERTI: And the main thrust of his letter,  
25 again, was the four months, which I guess later became an issue,  
26 the four months being extended to six months?

27 MR. APODACA: That is correct, Senator.  
28





1           CHAIRMAN ROBERTI: Now, I guess the concern revolves  
2 around the fact that there's a sole bidder here. It's been  
3 alleged that documents crucial to establishing whether or not  
4 favoritism was shown to the successful bidder for the new  
5 on-line contract were purposely destroyed by the Lottery staff.

6           Do you know about this allegation? Do you know if  
7 there's any truth to this charge? Do you feel you're in a  
8 position to say that the charge was groundless?

9           MR. APODACA: I do know, Senator, that the Attorney  
10 General conducted an investigation and found that there was no  
11 basis to the allegation.

12          CHAIRMAN ROBERTI: When did he conclude that  
13 investigation?

14          MR. APODACA: That I do not know.

15          CHAIRMAN ROBERTI: When did he begin it?

16          MR. APODACA: I would say within the last month or  
17 so.

18          CHAIRMAN ROBERTI: Were you notified to that effect,  
19 or was the Lottery Commission notified to that effect?

20          MR. APODACA: Staff notified the Commissioners, yes.

21          CHAIRMAN ROBERTI: The Attorney General's staff?

22          MR. APODACA: No, staff -- the Lottery staff notified  
23 the Commissioners at the conclusion of the investigation.

24          CHAIRMAN ROBERTI: The Governor's indicated that he  
25 has convened a review panel, or he had convened a review panel,  
26 to determine whether or not this recent on-line procurement  
27 should proceed. While finding no impropriety in the process,  
28



1 I'm told the Governor's Office did conclude that there were  
2 troubling questions about the process.

3           Could you please detail to the fullest extent that  
4 you can for the Committee how the Lottery is responding to the  
5 concerns raised by the Governor in his review panel, and to what  
6 extent can you elucidate for us what those troubling questions  
7 were, and again, how you responded to them?

8           MR. APODACA: I do have a copy of the Governor's  
9 letter, if I may be permitted to read --

10          CHAIRMAN ROBERTI: Please.

11          MR. APODACA: -- the section that has to do with the  
12 troubling questions.

13          CHAIRMAN ROBERTI: If you want, submit the Governor's  
14 letter in evidence. We would appreciate that.

15          MR. APODACA: Fine.

16          CHAIRMAN ROBERTI: Read the relevant part, and then  
17 we'd be glad to make a copy of the Governor's letter.

18          MR. APODACA: Fine.

19          There are four points that he made in his letter.  
20 One had to do with review and documentation:

21                 "The California State Lottery should  
22 review and document the current  
23 procurement process to establish a  
24 specific sequence of activities, assigned  
25 responsibilities, and levels of approval."

26          The second point that the Governor's letter contained  
27 had to do with significant multiple year contracts:  
28



1                   "For significant lottery contracts  
2                   that will remain in force over multiple  
3                   years and involve new applications of  
4                   technology or asset acquisition by the  
5                   lottery, a more definitive procurement  
6                   process should be outlined, including:

7                   "A prequalification solicitation of  
8                   vendors to assess important evaluation  
9                   criteria ..."

10                  Then he goes on to list things like: financial solvency,  
11                  potential areas of conflict, disclosure of litigation history,  
12                  et cetera.

13                  The next item that he noted was use of outside  
14                  consultants:

15                  "Use of outside consultants is  
16                  unquestionably appropriate in the highly  
17                  specialized world of the lottery  
18                  procurements. However, the role of the  
19                  consultant should be clearly delineated  
20                  and should include a specific commitment  
21                  to statewide procurement requirements in  
22                  addition to specific Lottery objectives."

23                  The fourth and final point that he made was:

24                  "Although a percentage of the sales  
25                  formula for compensation may have  
26                  advantages, the total cost of the contract  
27                  should bear some relationship to the  
28





1 vendor's actual expenditures plus a fair  
2 and reasonable profit. This means ..."

3 CHAIRMAN ROBERTI: Give me that last one again?

4 MR. APODACA: [Quoting from Governor's letter]

5 "... the total cost of the contract should  
6 bear some relationship to the vendor's  
7 actual expenditures plus a fair and  
8 reasonable profit."

9 CHAIRMAN ROBERTI: Would you say that the contract  
10 that was negotiated bore no relationship to, or little  
11 relationship to, the cost of the contract?

12 MR. APODACA: That's difficult to say, since I don't  
13 believe that staff at the Lottery's office has access to the  
14 vendor's cost in this contract. It was negotiated strictly as a  
15 percentage of gross revenue, like all -- essentially all Lottery  
16 contracts are negotiated now. The prior contract --

17 CHAIRMAN ROBERTI: Have you changed that, or are you  
18 in the process of changing it? Do you think that should be  
19 changed, that the cost should be a factor in the negotiation of  
20 the contract?

21 MR. APODACA: I'm sorry, would you rephrase the  
22 question?

23 CHAIRMAN ROBERTI: Are you in the process of changing  
24 that? Do you think it should be changed, that vendor's costs  
25 should be an aspect of the cost of the contract?

26 MR. APODACA: It's difficult for me. My personal  
27 opinion is that the process should ensure fair competition and  
28



1 invite as many bids as possible.

2 We really -- I don't think that the Lottery's in the  
3 position to determine exactly what the cost of a vendor's  
4 contract is going to be. It's difficult to assess that. Number  
5 one, it's at the beginning of the contract. Nobody knows for  
6 sure what the costs will be.

7 CHAIRMAN ROBERTI: But you're saying that in the  
8 Governor's letter, he's indicated that that ought to be a  
9 factor.

10 MR. APODACA: That's correct. He is saying that it  
11 should bear some relationship to cost.

12 Now, in our immediate contract, in the contract that  
13 was just negotiated, at the end of five years it is anticipated  
14 that the Lottery staff will be able to negotiate a much better  
15 cost rate with the vendor, with GTECH, simply because --

16 CHAIRMAN ROBERTI: Why would that be five years from  
17 now that you couldn't do this year?

18 MR. APODACA: Well, it's simply because GTECH's costs  
19 are already in place, and in order to extend the contract for  
20 them, the cost is not going to be as great as it would have been  
21 in the initial five years.

22 CHAIRMAN ROBERTI: Why weren't they already in place  
23 for the past five years?

24 MR. APODACA: That was a totally different concept.

25 The old contract called for the Lottery to own its  
26 equipment. In the new contract, GTECH, the vendor, is to  
27 provide all of the equipment. The Lottery is getting out of the  
28



1 computer business.

2 CHAIRMAN ROBERTI: You're saying the basis under  
3 which GTECH was bidding was altogether different.

4 MR. APODACA: That's correct.

5 CHAIRMAN ROBERTI: Altogether different.

6 MR. APODACA: Totally different.

7 CHAIRMAN ROBERTI: You didn't have a cost basis upon  
8 which to rely.

9 MR. APODACA: That is correct.

10 CHAIRMAN ROBERTI: Am I then to understand when the  
11 Governor's letter indicates that there should be new processes  
12 or four points, he's basing part of that on information that  
13 we'll have in the future that we didn't have in the past?

14 That we should have these four new bases upon which  
15 we are going to negotiate or ought to negotiate a vendor's  
16 contract, that is based in part, at least, on the fact that in  
17 the future, we will have information that was not available to  
18 you?

19 Is that right or is that wrong?

20 MR. APODACA: If I understand the question, the four  
21 points that were raised in the Governor's letter, most of them  
22 are already in place, not exactly the way that the Governor's  
23 letter addresses them, but in a different way.

24 For example, he recommended that the Lottery prepare  
25 a model of a contract based on different probabilities. For  
26 instance, in this contract, there is already a system where the  
27 Lottery will prepare a cost benefit analysis. They get the same  
28





1 information but in a different way.

2 CHAIRMAN ROBERTI: How exactly are you responding to  
3 the concerns raised by the Governor?

4 MR. APODACA: Staff at present, staff is preparing a  
5 report to the Commission in which they will address every one of  
6 these items that were pointed out to in the Governor's letter in  
7 detail. That has not been prepared as yet.

8 CHAIRMAN ROBERTI: That is for future contracts that  
9 are negotiated --

10 MR. APODACA: That is correct.

11 CHAIRMAN ROBERTI: -- as far as vendor, and I guess  
12 anything else?

13 MR. APODACA: Anything else.

14 CHAIRMAN ROBERTI: I just had a telephone call that I  
15 have to respond to now, so we're going to recess for ten minutes  
16 without objection. I'll be right back.

17 [Thereupon a brief recess was taken.]

18 CHAIRMAN ROBERTI: Rules Committee will reconvene.

19 In the case of the recent on-line contract awarded to  
20 GTECH, we hear of potential legal action by unsuccessful or  
21 disappointed vendors.

22 Is this type of legal response unique to the State of  
23 California, or does it occur in other states? What's the  
24 uniqueness of this practice in California?

25 MR. APODACA: Apparently, from what I've been told,  
26 this is not unique to California. Apparently people like to sue  
27 each other in the lottery. For instance, the unsuccessful  
28



1 bidder was recently involved in a lawsuit, I believe, in New  
2 York. We had recent -- the California Lottery recently had  
3 experience with GTECH, in that GTECH sued the Lottery last year  
4 over a contract that they did not receive.

5 CHAIRMAN ROBERTI: So, it's your feeling that the  
6 response in California is not too dissimilar?

7 MR. APODACA: Apparently not, Senator.

8 CHAIRMAN ROBERTI: An on-line contract of the size  
9 and type which the California Lottery has just awarded, where  
10 the entire system is being upgraded and replaced, would seem to  
11 be initially very cost-intensive for the vendor.

12 Since you said this time it's hard to factor in cost,  
13 how did you go about determining that California got a good  
14 deal? What were the factors?

15 MR. APODACA: Originally, the Lottery staff made  
16 their own calculation of what they thought it was going to cost.  
17 And as I remember correctly, they came up with the number of  
18 from 4% to 4.2%, somewhere in that area. That included the  
19 telecommunications system.

20 CHAIRMAN ROBERTI: What was the amount again?

21 MR. APODACA: From 4% of gross sales to 4.2% of gross  
22 sales, which included the telecommunications system, which, with  
23 the existing contract, amounts to approximately 1% of gross  
24 sales. Therefore, the percentage figure that was ultimately  
25 negotiated with GTECH is under what was -- what had been  
26 estimated by the staff in the Lottery.

27 In addition to that, the existing contract today  
28



1 costs less than the -- or the equipment costs less than the  
2 equipment cost seven years ago.

3 Also, comparisons to other states; for instance,  
4 Georgia recently negotiated a contract in which their percentage  
5 was 2.998, I believe, somewhere in that area, just slightly  
6 above California's.

7 CHAIRMAN ROBERTI: And what's the California percent  
8 again?

9 MR. APODACA: 2.895.

10 CHAIRMAN ROBERTI: Did you use any other criteria to  
11 compare the California contract against other state contracts,  
12 besides the percentage?

13 MR. APODACA: I'm sure that they did.

14 CHAIRMAN ROBERTI: Right.

15 MR. APODACA: At least, I do not know for a fact that  
16 they did, but I would think that the Lottery staff would have,  
17 yes.

18 CHAIRMAN ROBERTI: When you made your decision on  
19 what was good for California, what were the factors you took  
20 into consideration?

21 MR. APODACA: Well, the facts that I considered  
22 certainly were those that I just stated to you. In addition to  
23 that, we observed closely the Request for Proposal process, the  
24 presentations that had been made to the Commissioners at the  
25 Lottery meetings.

26 CHAIRMAN ROBERTI: Did you attend all the Lottery  
27 meetings?  
28





1 MR. APODACA: Yes, sir.

2 CHAIRMAN ROBERTI: Give me again the factors. You  
3 took into the factors the staff recommendations, the percentage  
4 rate as it compared with other states, and what else?

5 MR. APODACA: The fact that the current contract has  
6 -- is costing less than the original contract of seven years  
7 ago. That was a factor.

8 CHAIRMAN ROBERTI: On the question of the equipment,  
9 did the Lottery receive anything in return for the old  
10 equipment?

11 MR. APODACA: I believe there was a price concession  
12 of some sort worked out with GTECH.

13 CHAIRMAN ROBERTI: Where they reduced the price to  
14 us?

15 MR. APODACA: I believe so.

16 CHAIRMAN ROBERTI: To the state.

17 Is this going to be a practice that the Commission  
18 intends to keep in the future?

19 MR. APODACA: We won't have that problem in the  
20 future since the Lottery is getting out of the computer  
21 business. We will not own the equipment.

22 CHAIRMAN ROBERTI: Are there any conditions under  
23 which the Lottery Commission might find it necessary to amend  
24 the current Lottery contract, and do it have authority for doing  
25 so?

26 MR. APODACA: I believe it does have authority to do  
27 so, and I can see several conditions under which it would be  
28



1 incumbent to amend the contract. For instance, a  
2 technological advance, where new equipment might be available  
3 that the Lottery does not currently have that may be substituted  
4 for existing equipment.

5 At the end of the initial five years, the contract  
6 may be -- will probably be amended to renegotiate the rate, if  
7 there are any extensions granted.

8 CHAIRMAN ROBERTI: Additionally, the current amending  
9 of the contract as it regards to the Keno game has drawn some  
10 concern.

11 Can you tell me why the present contract was amended  
12 in that regard?

13 MR. APODACA: Yes. Originally, the Lottery  
14 contracted with a vendor other than GTECH to provide it with  
15 Keno terminals. The Keno game was supposed to have started in  
16 the early part of November of 1992. As the time for starting  
17 the game drew near, it became apparent that the vendor that was  
18 supposed to supply the terminals was not going to comply.

19 It then became a business decision on the part of the  
20 Lottery whether to postpone the introduction of Keno, to  
21 contract with GTECH that did have the terminals available, or to  
22 give the existing contractor an extension. The Lottery made the  
23 decision to get the terminals from GTECH and proceed with its  
24 original plans of inaugurating Keno in the early part of  
25 November.

26 CHAIRMAN ROBERTI: Now, the most controversial aspect  
27 of the GTECH contract, the most recent, is the fact, I would  
28



1 say, that it was a sole source contract. How did that come  
2 about?

3 MR. APODACA: It was a surprise to many of us. I was  
4 at a meeting, at a Commission meeting on February the 10th, and  
5 one of the questions that I asked Mercedes Azar, who is the head  
6 of the Evaluation Committee, was how many bidders do we expect?  
7 She replied to me that we expected three, since three vendors  
8 had attended all the bidders conferences, had asked the  
9 questions, had been involved in the evaluation of the RFP, and  
10 so forth.

11 It was not until the day before the bids were to be  
12 received that it was learned that we would only have one bidder.

13 CHAIRMAN ROBERTI: So, you thought there were going  
14 to be three on February 10th. Then what happened?

15 MR. APODACA: Well, nothing happened. I got a call  
16 from -- as all the other Commissioners -- from the Director  
17 saying that AWA had decided not to bid. This was the day before  
18 the bids were supposed to have been received.

19 CHAIRMAN ROBERTI: On what day again did you find out  
20 there was only going to be one?

21 MR. APODACA: I believe it was like the bids were to  
22 have been received on February the 17th, and this would have  
23 been the day before, the 16th.

24 CHAIRMAN ROBERTI: The other potential bidders allege  
25 that they didn't have enough time to make their bids.

26 What validity is there do you find?

27 MR. APODACA: Well, I understand that the AWA, the  
28





1 most vocal of the unsuccessful bidders, recently submitted a bid  
2 to the State of Georgia for their lottery system that had the  
3 same time frame as California's.

4 And I do know that the Lottery did everything that it  
5 could to meet the time frames that -- reasonable time frames  
6 that had been requested by extending the conversion period.

7 CHAIRMAN ROBERTI: So, there was a time frame  
8 extension. In Georgia, you're saying -- what's the name of the  
9 company?

10 MR. APODACA: AWA.

11 CHAIRMAN ROBERTI: They did operate within the  
12 constraints, or within a more constrained time frame?

13 MR. APODACA: The same as California's.

14 CHAIRMAN ROBERTI: Same as California;s.

15 MR. APODACA: Yes. They did submit a bid, but they  
16 were not successful.

17 CHAIRMAN ROBERTI: Do you think the concern that they  
18 didn't have enough time is legitimate, or is it specious?

19 MR. APODACA: I'd rather not say. I really don't  
20 know.

21 CHAIRMAN ROBERTI: In your knowledge, however, the  
22 people that gave you time frames to work with indicated --  
23 that's Mr. Jones and the other group you mentioned was --

24 MR. APODACA: The Evaluation Committee.

25 CHAIRMAN ROBERTI: -- the Evaluation Committee had  
26 indicated that an extension from four to six months would be  
27 proper?  
28



1 MR. APODACA: Yes, and in addition, Batelle Memorial  
2 Institute told us that the time frame is not uncommon in the  
3 lottery industry.

4 CHAIRMAN ROBERTI: Six months?

5 MR. APODACA: Six months, correct.

6 CHAIRMAN ROBERTI: You contracted with Batelle. For  
7 what services did you contract with them?

8 MR. APODACA: For a number of services. They were  
9 -- acceptance testing of the Keno system was one. To assist the  
10 Lottery in the preparation of the Request for Proposal.  
11 Evaluation of bids.

12 CHAIRMAN ROBERTI: Were they the evaluator?

13 MR. APODACA: No, the Evaluation Committee -- wait a  
14 minute. I believe that they worked with the Evaluation  
15 Committee in doing the evaluation, but they did not -- were not  
16 involved in the final decision process.

17 CHAIRMAN ROBERTI: Does Batelle have a relationship  
18 with GTECH?

19 MR. APODACA: No, no. Batelle works only for  
20 lotteries. It does not work for vendors.

21 CHAIRMAN ROBERTI: I don't right now have any more  
22 questions.

23 Does anybody else have any questions? Senator Hayden  
24 is here on this nomination.

25 Senator Ayala.

26 SENATOR AYALA: I just have a point of clarification.

27 Mr. Apodaca, as I recall, the original initiative  
28



1 that created the Lottery system in California in 1984 had a  
2 percentage that went for management, a percentage for prizes,  
3 and a percentage of the gross for education.

4 MR. APODACA: That is correct.

5 SENATOR AYALA: The first five years of the GTECH  
6 contract, they received \$250 million; is that correct?

7 MR. APODACA: Let's see. I believe it was for the  
8 seven years, from the -- they had an original contract for five  
9 years, and they've had two one-year extensions.

10 SENATOR AYALA: But for the first five years, it was  
11 roughly 250 million?

12 MR. APODACA: That I don't know. It was \$270 for the  
13 seven years, but for the five years --

14 SENATOR AYALA: My question is, is that part of the  
15 operating expenses under that category, whatever it costs for  
16 the contract is under that percentage that goes for the  
17 operating of the system?

18 MR. APODACA: Yes, it is.

19 SENATOR AYALA: Thank you.

20 CHAIRMAN ROBERTI: Any other questions from the  
21 Members?

22 Senator Hayden, would you like to come on up to the  
23 desk here. Do you want to speak to the nomination, or do you  
24 have some questions you want to ask?

25 SENATOR HAYDEN: Senator, I indicated my concerns in  
26 a letter. I do have some questions.

27 CHAIRMAN ROBERTI: Normally we ask questions through  
28





1 the Chair. However --

2 SENATOR HAYDEN: I'd be glad to --

3 CHAIRMAN ROBERTI: However, I don't feel like  
4 interpreting the questions.

5 SENATOR HAYDEN: I could give it as testimony, and  
6 the gentleman could respond.

7 CHAIRMAN ROBERTI: I think that would be preferable.  
8 Why don't you make a statement incorporating your concerns, and  
9 then we will let Mr. Apodaca respond.

10 SENATOR HAYDEN: All right, I'll try.

11 I'm here as a concerned Senator, not an expert on  
12 lottery finance and have no personal reason to have any personal  
13 criticism of Mr. Apodaca.

14 I do, however, have concerns about the process which  
15 peaked in the sole source bid. They lead me to some worry about  
16 the whole process.

17 You have a very large vendor entity, then you have a  
18 strong staff. You have Commissioners who are part-time, who are  
19 there to serve as watchdogs and are compelled under state law to  
20 ensure competition.

21 I believe that's the exact phrasing, isn't it, Mr.  
22 Apodaca?

23 MR. APODACA: I believe so.

24 SENATOR HAYDEN: And then a Rules Committee and then  
25 a Senate. There are these layers of part-time supervision, and  
26 I believe this is a case where all of the part-time supervision  
27 has failed to yield the result of ensuring competition. That  
28



1 was my first and primary interest.

2           With respect to Mr. Apodaca, I believe that he is a  
3 member of the Lottery Commission serving in the slot as an  
4 accountant. And I presume -- since my father was an accountant,  
5 I've spent many years pondering this business -- that this was  
6 to ensure that there would be somebody there with independent  
7 eyes and ears and capability to watch the finances and the  
8 books.

9           The questions that I have primarily would revolve  
10 around votes that Mr. Apodaca cast, and I will simply comment on  
11 those votes, and he'll have an opportunity to respond.

12           But before I do that, sitting here listening to his  
13 testimony, certain questions became more of concern to me. He  
14 said, for instance, that Mr. Jones, whose memos this controversy  
15 revolves around to a large extent, was satisfied with the six  
16 months as opposed to the four months. Those memos are  
17 interesting reading, and I don't know how available they were to  
18 Commission members. And if I were to put this as a question, of  
19 course, I'd want to know if Mr. Apodaca had available to him all  
20 of the memos by Mr. Jones, raising serious questions about the  
21 four months, but also, contrary to what Mr. Apodaca just said,  
22 there were memos at late as December in which Mr. Jones  
23 expressed strong reservations even about the six months.

24           Now, I know that when he came with Director Sharp to  
25 the Government Operations Committee, he said as much as or the  
26 equivalent of an expression of satisfaction with the six months.  
27 He was not asked about how that squared with his memo of a month  
28



1 or two before. Let me read you what he was writing internally  
2 before he came with the Director under the glare of the Assembly  
3 hearing.

4 "The primary concern ... "  
5 and he's speaking about the six months, not the four,

6 "The primary concern relates to our  
7 current and tentative procurement strategy  
8 whereby the selected vendor would have the  
9 monumental contractual obligation to  
10 purchase or manufacture, to test and  
11 install approximately 12,500 terminals and  
12 8,000 interfaced monitors within a maximum  
13 of approximately six months.

14 "While the successful completion  
15 ..."

16 and I note there he's referring to a six-month time frame,

17 "While the successful completion of  
18 this task is certainly possible,"

19 and I would suggest to you that that is the equivalent of his  
20 later public testimony that's been referred to as  
21 "satisfaction," but the context is quite clear, that he was  
22 troubled.

23 "While the successful completion of  
24 this task is certainly possible, it may  
25 not be feasible to one or more potential  
26 bidders for a variety of fiscal and  
27 operational reasons."  
28





1 And this was at a time that the Commissioners were being  
2 reassured that there'd be three bidders. The memo goes on:

3 "Consequently, if we stick to this  
4 requirement ..."

5 the six months requirement,

6 "... we might easily scare away one or  
7 more potential bidders who simply are not  
8 willing to risk significant contractual  
9 penalties for not completing such a  
10 demanding task in, relatively speaking, a  
11 very brief amount of time. The end result  
12 might well be that we receive only one  
13 responsive bid, or worse yet, no bids at  
14 all."

15 The memo goes on, page after page, raising red flags about the  
16 six month time frame.

17 It seems to me that the Commissioners and anybody  
18 examining this should have had this memo before them and  
19 employed it when they were making this decision. And to say  
20 here that Mr. Jones was satisfied with the six months, I think,  
21 goes against the tone, the grain, and even 99% of the substance  
22 of his written internal memos.

23 Mr. Apodaca also referenced the letter from Governor  
24 Wilson. I asked you, Senator Roberti, if you had received this.

25 CHAIRMAN ROBERTI: I just got it. I haven't had a  
26 chance to even read it yet.

27 SENATOR HAYDEN: Well, my impression, from press  
28



1 accounts, the Governor had held an internal investigation of  
2 some kind of all of this. And perhaps I wasn't listening that  
3 closely enough, but I didn't hear Mr. Apodaca reference page 2  
4 of the Governor's memo, the fifth paragraph down, which says:

5 "... the information presented to the  
6 Panel does raise troubling questions ..."

7 Troubling questions,

8 "... about the [Lottery's] ability to  
9 conduct major procurements."

10 I want to indicate that the Governor's letter seems  
11 to blame the competition for not stepping up to the plate, as if  
12 there was no forewarning of this sudden dropout. But it seems  
13 to me, the internal memos that I have just read to you, and  
14 there are plenty of them, indicate that there were warning  
15 signals enough that the competition might drop out.

16 Furthermore as to the Governor's letter, I want to  
17 indicate the limitations of the supposed internal study that was  
18 done in the Governor's Office. He says:

19 "While the panel's process was as  
20 comprehensive as the time allowed, there  
21 were limitations."

22 To say the least. I'm not sure who was on this panel, but he  
23 indicates the panel did not have subpoena power, that oral  
24 presentations were unsworn. The panel relied entirely upon  
25 material which was voluntarily provided by the participants.  
26 They did not, and this is Governor Wilson's own language, "did  
27 not conduct an independent discovery effort," close quote.  
28



1           That is not, to me, a sufficient investigation, and  
2 perhaps why the Governor said certain "troubling questions"  
3 remained.

4           We can't apply those "troubling questions" -- if we  
5 could figure out what they were, and they're buried between the  
6 lines in the Governor's letter -- we can't raise those  
7 "troubling questions" and apply them in the future. We can't  
8 apply those questions to the future.

9           I want to stress here that this contract, as far as I  
10 know, is the largest single contract of its kind in the history  
11 of the State of California. So, for the highest level, the  
12 Governor, to say that there were "troubling questions", seems to  
13 me a justification for re-opening the whole process and not an  
14 argument for applying it in the future, because we're not going  
15 to have a contract like this.

16           CHAIRMAN ROBERTI: I might agree with you, Senator.  
17 Unfortunately right now, as you know, as well as I do, we're in  
18 the midst of troubling litigation --

19           SENATOR HAYDEN: I understand that.

20           CHAIRMAN ROBERTI: -- as to how far we can go with  
21 confirmations in regard to negotiating with them the performance  
22 of their duties.

23           I happen to be outraged at the recent court decision,  
24 and I think we're going to try to appeal, but nevertheless, it's  
25 a --

26           SENATOR HAYDEN: I'm speaking only as an individual.

27           CHAIRMAN ROBERTI: I understand that.  
28





1           It's a specter that hangs over us.

2           SENATOR HAYDEN: Well, no, let's put it this way.

3 I'm not calling for the Governor to do anything. I'm not asking  
4 the Senate to try to make the Governor do anything.

5           I'm saying that to say that the biggest contract in  
6 the history of this state raises "troubling questions" about the  
7 way in which it was obtained should suggest that the  
8 investigation go on at all levels.

9           Our business, as I narrowly construe it, Senator  
10 Roberti, is the competency question.

11          CHAIRMAN ROBERTI: I do think on that question there  
12 is a distinction between Mr. Apodaca and Mr. Cramer simply  
13 because Mr. Apodaca has answered that he did attend all the  
14 meetings, especially all the meetings relating to the GTECH  
15 contract.

16          I want to state this for the record, and then you  
17 give me the opportunity in your observation.

18          Whereas, Mr. Cramer, to my knowledge, and I hope I'm  
19 not wrong, did not, and the Commission has to exercise  
20 independent judgment. And in Mr. Cramer's case, that's hard to  
21 understand if he was able to do that if he wasn't at the  
22 meetings.

23          I don't want to make a subjective statement as to  
24 whether he did or he didn't, but it's awfully hard to convince a  
25 panel that that was the case if he didn't attend the meetings,  
26 which I think was one of the points you raised as well.

27          SENATOR HAYDEN: I agree with you.  
28



1 I'm here to comment on Mr. Apodaca's --

2 CHAIRMAN ROBERTI: I agree, but you gave me the  
3 chance to read that into the record because it's an important  
4 point.

5 SENATOR HAYDEN: I'm here to comment on Mr. Apodaca's  
6 votes, but first I am making observations about his testimony to  
7 you.

8 The next point that I wanted to make about that  
9 testimony is that he acknowledged a moment ago that he didn't  
10 know if the staff had made comparisons with other states, except  
11 for Georgia.

12 I don't believe there's any comparison to be made  
13 between California and Georgia, and I would think that there is  
14 a reason to expect that Commissioners would ask about the  
15 analysis of other states, which, by the way, was done; not only  
16 in the GTECH matter, but in the Batelle matter.

17 He also said that he was informed that the contract  
18 was a \$203 million contract, more or less. That is exactly  
19 correct, and the only thing to point out is that it was  
20 described as approximately 203 million in the April 21st memo to  
21 the Lottery Commission by Director Sharp.

22 As far as I know, there were no prior memos before  
23 this memo, which I find to be an amazing document, even for one  
24 as untutored as I am, as a memo recommending approval of the  
25 largest contract in the history of the State of California. It  
26 says that it is a reimbursement at a flat 2.895% of the on-line  
27 sales, as we know, for a five-year total of \$203 million.  
28



1           The \$203 million, according to the analysis, is based  
2 on an average of 1.4 billion over the next five years. But  
3 on-line sales in '88-89 and '89-90 were 1.8 billion, and in  
4 '90-91 were 1.7 billion. So, if sales remain at that level over  
5 the next five years, much higher than the 1.4, which is the key  
6 to the economic model, then the 203 million will be a minimum  
7 and certainly would be substantially exceeded in the  
8 profitability to GTECH.

9           This information was apparently not supplied or  
10 certainly not discussed at this meeting. In the public part of  
11 the meeting, the reason given for the lowering of the percentage  
12 was that there'd been great negotiations on the part of staff,  
13 and the removal of a few options, such as extensions into  
14 Winnebago motorhomes.

15           But there was no discussion on the public record that  
16 I know of at this meeting that the Lottery had given back GTECH  
17 10,000 terminals that it had just upgraded, that it gave back  
18 the computer platforms that California had just purchased; that  
19 that was a gift back of \$50-60 million. And if the \$50-60  
20 million was combined with the difference between the 2.8% and  
21 the 1.5% in New York, it equals an additional 98 million. The  
22 state could have lost \$148 million on that decision, and there's  
23 no public record of any such analysis or discussion of that  
24 decision.

25           On the Batelle management contract, on August 13th of  
26 last year, Mr. Apodaca voted for the no bid contract with  
27 Batelle. The situation, as I understand it, was as follows.  
28





1 The Lottery sought expertise in preparing its master contract  
2 RFP leading up to the big one. And they hired Batelle for  
3 \$200,000, or as it says, up to, not to exceed \$200,000.

4 This was a sole source bid, without competition, even  
5 though the State of Oregon recently had similar needs and had  
6 received three bids, ultimately choosing another firm named  
7 Deloitte-Touche for a fraction of Batelle's price.

8 The no bid contract yielded some interesting  
9 promises. Batelle said the contract the consultant was writing  
10 would be a bargain in the range of 1.5-1.7% of sales. What  
11 became of that, I don't know, because GTECH's sole bid came in  
12 at 2.895.

13 Batelle also stated very rosily that:

14 "It's our opinion that the  
15 California Lottery will attract at least  
16 three lottery vendor proposals that can  
17 address the objectives of the Lottery."

18 Those promises failed to materialize.

19 The question for the accountant member of the  
20 Commission would be: why vote for a no bid contract with  
21 Batelle, and why not call for greater scrutiny on the master  
22 contract's scope and price?

23 The master contract. The Lottery received only one  
24 bid. That's the biggest one in history. There were repeated  
25 internal staff memos warning that the contract was written so as  
26 to limit competition and generate only one bidder.

27 For example, a memo of 11/5/92:  
28



1                   "The biggest disadvantage to a  
2                   bungled procurement is the risk of getting  
3                   one or possibly two bids, and in a worst  
4                   case scenario, paying an inflated  
5                   noncompetitive price for needed goods."

6 Close quote.

7                   I will not bore you with the four or five other  
8 quotes that indicated that.

9                   I'm not sure what Mr. Apodaca did to see that  
10 competition was ensured.

11                   CHAIRMAN ROBERTI: Before we get off the subject, to  
12 go back to the Batelle contract, Mr. Apodaca, could you --  
13 because I don't think we spoke directly or asked you questions  
14 directly on why the sole source on Batelle.

15                   MR. APODACA: May I answer?

16                   CHAIRMAN ROBERTI: Yes, please.

17                   MR. APODACA: Batelle is the prominent lottery  
18 adviser in the country. It has successfully completed over, I  
19 think, 16 engagements with state lotteries in advising them on  
20 the procurement of their on-line system.

21                   In addition to that, it's got all -- it has a history  
22 of almost 50 engagements in advising lotteries in other areas.  
23 It works only for lotteries. It does not work for vendors. Its  
24 credentials are impeccable. That's why we decided and felt  
25 comfortable with a sole source contract.

26                   CHAIRMAN ROBERTI: Do you know of any other instances  
27 where the other firm that Senator Hayden made reference to,  
28



1 Deloitte-Touche, has ever performed these lottery advisory  
2 functions for other lotteries?

3 MR. APODACA: The Oregon instance that Senator Hayden  
4 is referring to did not involve the firm of Deloitte. I  
5 understand that the State of Oregon hired an employee from  
6 Deloitte-Touche to do independent evaluation and testing for  
7 them.

8 CHAIRMAN ROBERTI: So to your knowledge, it was not  
9 Deloitte-Touche itself?

10 MR. APODACA: No.

11 CHAIRMAN ROBERTI: Senator Hayden.

12 SENATOR HAYDEN: Well, but the point is, Oregon went  
13 out to bid and got a much lower price for their work product.

14 The second point is that the Batelle work product  
15 made projections of three bidders that evaporated. They said  
16 that they'd get a contract with 1.5-1.7%; never happened.

17 So, the noncompetitive bid, the sole source bid that  
18 brought in Batelle with all of its renowned expertise, yielded a  
19 report from Batelle that was completely off track in terms of  
20 what finally happened.

21 It might have been corrected with competitive  
22 bidding.

23 On the issue of Keno, just one other issue, on  
24 September 16th of last year, Mr. Apodaca voted for the contract  
25 that involved Keno. And let me take a moment here to see if I  
26 can explain in terms that even I can understand what this was  
27 about.  
28





1           There was a master contract that in effect in 1992  
2 with GTECH that's explicitly for services only. The Commission  
3 wanted to expand into Keno, and they used the master contract,  
4 which is for services only, as the vehicle to procure equipment,  
5 which is, I believe, explicitly prohibited by state law.

6           The purchase contract for equipment for Keno should  
7 have gone out to competitive bid, if I understand state law.  
8 The procurement was very -- it was very difficult, I think, for  
9 anyone to notice, but it was in the services contract. And yet,  
10 this Amendment 15 was written and passed on the vote of the  
11 Commission, which involved the purchase of equipment. The  
12 equipment was 2,000 lottery terminals for the state from GTECH.

13           The same Amendment 15 allowed the end or phase-out of  
14 the Lottery Commission's previous policy of promoting  
15 competition by having many contractors bidding for pieces of  
16 Lottery operations: design, equipment, purchase, maintenance,  
17 GTECH's existing contract required what they call "open  
18 architecture", or a design that could be tapped into by  
19 equipment designed by other computer companies. But the  
20 amendment that was voted on to the contract did away with that  
21 requirement.

22           The net effect of this was to allow GTECH to design  
23 and operate a system that only GTECH could really technically  
24 access. That significantly benefitted GTECH by reducing  
25 competition in the bidding process, and in effect, making the  
26 Commission and the Lottery hostage to a technology that only  
27 GTECH, the vendor, could access.  
28



1           So, in this case, the whale starts to swallow the  
2 fisher person.

3           That is it. I think that these are votes that  
4 clearly any one of us might have entertained making. It's a  
5 hard job, but I really think there's been a failure to ensure  
6 competition, which is the statutory mandate. The sole source  
7 decision on April 21st, which was the biggest in the state's  
8 history, is one that has brought this issue to light. One of  
9 the Commissioners in the wake of this has resigned, as you've  
10 indicated.

11           He would have been appointed, Senator Roberti, if the  
12 previous recommendation of the Rules Committee had been followed  
13 on the Senate Floor.

14           So, I hope that some light has already come from  
15 this, and that the Rules Committee will find some way to pursue  
16 this investigation further.

17           Everything that I've said is based on public record  
18 and documents. And I tell you, I have a fear that I've only  
19 scratched the surface.

20           CHAIRMAN ROBERTI: Thank you, Senator.

21           I personally am not prepared to say that either  
22 Mr. Cramer or Mr. Apodaca have engaged in any improper activity.

23           I do state that Mr. Cramer's failure to attend the  
24 meetings, which frankly just came to light, when this major  
25 contract -- as Senator Hayden puts it -- the largest in the  
26 history of the state, I don't know if that's the case, but it  
27 sure seems like it may be -- didn't attend those meetings. I  
28



1 mean, if you don't attend that meeting, then why are you on the  
2 Commission, or you better have a very good reason. It also  
3 indicates that it's much harder to exercise independent judgment  
4 if you're not there. I guess you can, but it's harder to  
5 establish that case.

6 In your case, Mr. Apodaca, I personally don't want to  
7 engage in micro-managing your role as a Commissioner. You come  
8 well regarded with numerous recommendations for your  
9 confirmation, as you did previously.

10 But it does appear, I would say, that the Commission  
11 has a duty to affirmatively try to get as much competition in  
12 the bid as it can, and it does appear that this was lacking.

13 It does not appear to me that this was the result of  
14 dereliction of duty or malfeasance in the performance of duties,  
15 but I do think the Commission ought to and must try harder in  
16 the rendition of all these contracts.

17 We have another witness, Mr. Mark Davis of Commerce  
18 Printing Services.

19 Mr. Davis, why don't you come on up.

20 Are there any other witnesses here besides Mr. Davis?  
21 Fine, we'll take you next.

22 Yes, Mr. Davis.

23 MR. DAVIS: Thank you.

24 I'm Mark Davis. I'm the Sales Manager at Commerce  
25 Printing. We're a local printer here downtown. And I just  
26 briefly wanted to give a little bit of my history, my  
27 experience. You'll be glad to know it doesn't regard the GTECH  
28





1 contract. But just to shed -- if it'll broaden the perspective.  
2 I'm just going to read this real briefly just to give you the  
3 facts of what my experience has been.

4 We're a minority-owned firm. We've got about 50  
5 employees, and we try very hard to earn business with many of  
6 the people here, Tower Records, Multiple Sclerosis, many other  
7 companies.

8 My personal experience started last June when we  
9 started working with the High Integrity Systems, and we began  
10 working with them to produce -- we had got a contract to produce  
11 a manual for a product they would produce for the Lottery.  
12 Originally, the manual was to be produced by the first part of  
13 November, I believe, of last year, and we were supposed to have  
14 a manual at about that point.

15 The staff of the Lottery seemed to flounder back and  
16 forth with instructions on how the manual should be assembled,  
17 what it should contain. This process of indecision went on for  
18 months. One committee wanted one certain set of illustrations  
19 or instructions, the other one wanted it deleted.

20 The High Integrity Systems people would make the  
21 corrections. They'd be back as quickly as they could. It just  
22 go to another committee or department of the Lottery who would  
23 see things completely differently and wanted these illustrations  
24 added back in, and larger, or different things added or deleted,  
25 with emphasis on some things and not others.

26 As I would check back with my contacts there from  
27 time to time, I could feel the frustration of a group of people  
28



1 who couldn't get -- seem to get a straight answer. Never seemed  
2 to be any clear direction or leadership on behalf of the Lottery  
3 on whether they really wanted to go with these particular parts  
4 of the deal.

5 Now, as I understand it, up to 15 different  
6 committees or departments and other elements of the Lottery  
7 organization were reviewing the manual, each injecting their own  
8 opinions, each feeling they had authority to override the other  
9 departments. No one seemed to be in charge of mandating the  
10 specific direction.

11 Finally, High Integrity Systems just handed over the  
12 computer disks for them to go ahead and finish the manual on  
13 their own and just give it back to them when they were finished.  
14 It was still not received to this date, a finished copy for us  
15 to print. And we're approaching almost a year. And of course  
16 now, with the recent decision to terminate the contract, I'm  
17 sure that's on hold, if not completely eliminated.

18 From what I understand, this is not just an isolated  
19 incident of how the Lottery conducts business. The electronic  
20 device that they were -- that the High Integrity Systems was  
21 supposed to produce, we originally were supposed to have a test  
22 unit to them by about that time last November. However, the  
23 Lottery had not finished deciding what they wanted on the key  
24 pad to be configured, which is key to how the system's supposed  
25 to be programmed, and assembled, and everything else. So, it  
26 wasn't possible for them to produce even a test unit by that  
27 time.  
28



1           Because of these kinds of delays, the final deadline  
2 was extended and extended finally until early April, early last  
3 month. And even at that point, when they submitted the units  
4 for testing, the Lottery hadn't set up any way of testing them.  
5 They hadn't had any experts or anybody there to proceed with  
6 that.

7           I don't know the Commissioner personally. What I've  
8 just seen is a pattern of chaos and little leadership.

9           This was a huge contract. I mean, this was a \$150  
10 million contract over five years, from what I understand. And  
11 not to mention what it does for little people like me, I mean,  
12 this was a half million dollars of business we were supposed to  
13 get over the next five years, and that's a big chunk for our  
14 little company.

15           I understand there were other vendors who had  
16 employed up to 100 people for one, and several in others, who  
17 are now laid off and fired, and -- or laid off because the  
18 contract is cancelled. Plus the millions of dollars of revenue  
19 that's lost from the immediate Sacramento marketplace.

20           In the present Commission, I also understand there  
21 seems to be a pattern of rubber-stamping the Director's wishes.  
22 Now, I know that, you know, I wanted to know if Mr. Apodaca had  
23 questioned the Director when -- let me back up for a second.

24           At the time when -- last month, the Director evoked a  
25 special meeting of the Commissioners which was handled in  
26 secrecy, from what I understand, which from what I've also been  
27 told has never happened before. The Director wanted the High  
28







1 Integrity Systems' contract cancelled. And the Commission had  
2 -- the Commissioners had approved it, and I guess given --  
3 handed a letter to one of the High Integrity Systems people just  
4 to indicate that they decided to terminate that contract just  
5 about ten minutes before the public hearing. So, most of the  
6 employees of High Integrity Systems found out that they were  
7 potentially out of a job at a public hearing.

8           You know, what I would just be curious to see is,  
9 does the Commission, I mean, do they consider the fact that all  
10 these jobs are at stake? The fact that did he ask has the  
11 product even been tested? They hadn't had a system for even  
12 testing it. How can you say the thing doesn't work and reject  
13 the contract if you haven't even had a chance to look at it?

14           And I really don't have anything else to add, except  
15 that my frustration of the fact that we worked very hard for a  
16 long time, and I worked with several people who just see an  
17 endless loop of no answers, no specific clear direction,  
18 frustration, setbacks, and lack of cooperation to fulfill a  
19 contract which had been established, and then no clear specific  
20 reason that I've really seen to my satisfaction for canceling  
21 that contract.

22           CHAIRMAN ROBERTI: Thank you, Mr. Davis.

23           Do you want to respond, Mr. Apodaca?

24           MR. APODACA: Which question?

25           I, of course, am familiar with the --

26           CHAIRMAN ROBERTI: Respond, I guess, to Mr. Davis'  
27 general frustrations at the modus operandi.  
28



1 MR. APODACA: Well, being a small businessman myself,  
2 I certainly do sympathize with your frustration and your concern  
3 over this thing, Mr. Davis.

4 The High Integrity contract was in place for a number  
5 of months, and I do know that the -- although I'm not involved  
6 in the day-to-day operations of the Lottery, I do know that  
7 everything was done on the part of the Lottery to help High  
8 Integrity to complete this contract. And basically, they didn't  
9 come through.

10 MR. DAVIS: Did they get those final units to you on  
11 the deadline that was finally established in April for testing,  
12 and did you have ;people there to test it, and did you test the  
13 products?

14 MR. APODACA: I understand that they were delivered,  
15 and I understand that the Lottery's technical people did test  
16 their product. And I understand that they did not pass the  
17 test.

18 MR. DAVIS: You had technicians that tested it?

19 MR. APODACA: That's what I've been told.

20 MR. DAVIS: That goes contrary to what I've heard  
21 from several sources --

22 MR. APODACA: At the meeting --

23 MR. DAVIS: -- including some of the investigators.

24 MR. APODACA: At the meeting that you referred to, it  
25 was not a secret meeting per se. It was a closed meeting, and  
26 it was certainly not in violation of any law. The law allows  
27 this type of meeting to be held by commissions if the subject of  
28



1 the meeting is litigation.

2 MR. DAVIS: Had one of those ever been done before?

3 MR. APODACA: Yes, four times.

4 MR. DAVIS: Really. Why was this one chosen to be  
5 done that way?

6 MR. APODACA: Well, obviously, you don't air your  
7 facts concerning a major contract like this and a decision to  
8 cancel the contract, and in fact, the decision to lodge a  
9 lawsuit, in public. It's just not prudent to do so.

10 MR. DAVIS: Were there provisions in the contract for  
11 handling disputes? Were they allowed opportunity to correct  
12 anything you felt was dissatisfactory in the product?

13 MR. APODACA: I would think so.

14 MR. DAVIS: Anyway, those are my observations. I  
15 don't want to force you to say anything you're not free to if  
16 it's under litigation right now.

17 CHAIRMAN ROBERTI: Thank you very much, Mr. Davis.

18 MR. DAVIS: Thank you.

19 CHAIRMAN ROBERTI: We have one other witness, I  
20 believe.

21 MR. PEREZ: Mr. Chairman, Members of the Committee,  
22 my name's Adrian Perez, and I am Vice President of the Capitol  
23 Cities Chapter of the Personnel Management Association of Aztlan  
24 whose membership includes public and private Hispanic  
25 professional employees, business owners, and educators.

26 We believe Mr. Daniel Apodaca is eminently qualified  
27 to be a member of the California State Lottery Commission.  
28





1 Therefore, we urge you to vote to confirm Mr. Apodaca.

2 I have here letters which state our position for each  
3 of you to consider.

4 Thank you for allowing us the time to state our  
5 support for Mr. Apodaca.

6 CHAIRMAN ROBERTI: Is there anyone else here who  
7 would like to testify on this appointment?

8 Then do I hear a motion?

9 SENATOR AYALA: Mr. Chairman, I move that Mr. Apodaca  
10 be confirmed as a member of the Lottery Commission.

11 CHAIRMAN ROBERTI: Senator Ayala moves that Mr.  
12 Apodaca's confirmation be recommended to the Floor.

13 Is there any discussion or debate? Any opposition?

14 Secretary will call the roll.

15 SECRETARY WEBB: Senator Ayala.

16 SENATOR AYALA: Aye.

17 SECRETARY WEBB: Ayala Aye. Senator Beverly.

18 SENATOR BEVERLY: Aye.

19 SECRETARY WEBB: Beverly Aye. Senator Petris.  
20 Senator Craven.

21 SENATOR CRAVEN: Aye.

22 SECRETARY WEBB: Craven Aye. Senator Roberti.

23 CHAIRMAN ROBERTI: Aye.

24 We have four votes. Senator Petris may want to be  
25 recorded, so we'll go into executive session and then we'll go  
26 back to open session in order to record Senator Petris' vote, if  
27 he's here, or just to announce the vote.  
28



1           This will be taken up on the Floor tomorrow because  
2 that's Mr. Apodaca's last day. We call it the "drop dead" day,  
3 Mr. Apodaca.

4           MR. APODACA: Thank you, Senator, gentlemen, ladies.

5           CHAIRMAN ROBERTI: Senator Petris is not coming back  
6 so we will announce the vote on Mr. Apodaca.

7           The vote is four to zero; confirmation is recommended  
8 to the Floor.

9                       [Thereupon this portion of the  
10                      Senate Rules Committee hearing  
11                      was terminated at approximately  
12                      4:20 P.M.]

13                               --oo0oo--  
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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 13<sup>th</sup> day of May, 1993.

  
EVELYN J. MIZAK  
Shorthand Reporter









1 SENATE RULES COMMITTEE  
2 STATE OF CALIFORNIA  
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8 HEARING  
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12 STATE CAPITOL  
13 ROOM 113  
14 SACRAMENTO, CALIFORNIA  
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18 WEDNESDAY, MAY 19, 1993  
19 2:05 P.M.  
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25 Reported by:  
26

27 Evelyn J. Mizak  
28 Shorthand Reporter



APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chair

SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR RUBEN AYALA

SENATOR ROBERT BEVERLY

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

GEORGE W. FENIMORE, Member  
Teachers' Retirement Board

ROBERT P. MARTINEZ, Director  
Department of Aging





INDEX

	<u>Page</u>
Proceedings . . . . .	1
<u>Governor's Appointees:</u>	
GEORGE W. FENIMORE, Member Teachers' Retirement Board . . . . .	1
Background and Experience . . . . .	1
Motion to Confirm . . . . .	2
Committee Action . . . . .	2
ROBERT P. MARTINEZ, Director Department of Aging . . . . .	2
Background and Experience . . . . .	3
Questions by CHAIRMAN ROBERTI re:	
Proposals Regarding Interstate Funding Formula and Final Solution . . . . .	4
Governor's Proposals for Cutbacks in Services for the Aging . . . . .	6
Advocacy Position . . . . .	6
Contingency Plans . . . . .	6
Questions by SENATOR AYALA re:	
Evolution from Communications/Broadcast Journalism into Problems of Aging . . . . .	7
Involvement with Senior Gleaners . . . . .	7
Motion to Confirm . . . . .	8
Committee Action . . . . .	8
Termination of Proceedings . . . . .	8
Certificate of Reporter . . . . .	9



P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN ROBERTI: Let's go to Governor's appointments, Mr. George W. Fenimore, Member of the Teachers' Retirement Board.

Mr. Fenimore, we'll ask you what we ask all the Governor's appointees, and that is why you feel you're qualified to assume this position.

MR. FENIMORE: Good afternoon, gentlemen.

Why am I qualified? I have a long business background involving investments, on the one hand. On the other hand, I have been involved in education for the last 25 years, chairing the Education Committee of the Beverly Hills Chamber of Commerce, where we have about ten different programs involving helping to educate children, including the American Presidential Classroom which sends five children to Washington to learn about government. Another, a career internship program where we put 150 children out in the business and professions, and that has affected their careers.

In addition to that, I have been recognized, I may say, by the California Teachers Association last week with a State Globe Award. Those are a few things, sir.

CHAIRMAN ROBERTI: Thank you very much.

Any discussion or debate? Any questions of Mr. Fenimore? No questions of Mr. Fenimore.

I don't think I have any, either. I think we're going to let you off easy, Mr. Fenimore.

Is there any opposition in the audience?



1 Do I hear a motion?

2 SENATOR PETRIS: Move.

3 CHAIRMAN ROBERTI: Senator Petris moves confirmation  
4 be recommended to the Floor.

5 Secretary will call the roll.

6 SECRETARY WEBB: Senator Ayala.

7 SENATOR AYALA: Aye.

8 SECRETARY WEBB: Ayala Aye. Senator Beverly.  
9 Senator Petris.

10 SENATOR PETRIS: Aye.

11 SECRETARY WEBB: Petris Aye. Senator Craven.  
12 Senator Roberti.

13 CHAIRMAN ROBERTI: Aye.

14 The vote is three to zero; confirmation's recommended  
15 to the Floor.

16 Congratulations.

17 MR. FENIMORE: Thank you very much. I consider it an  
18 honor to be a member of the State Teachers' Retirement Board,  
19 and I appreciate your confidence. Thank you.

20 CHAIRMAN ROBERTI: We look forward to working with  
21 you.

22 Now, we've had a request to put Mr. Martinez over,  
23 but we've put Mr. Martinez over how many times now? At least  
24 three times, so I think that's enough already.

25 So, why don't you come forward, Robert P. Martinez,  
26 Director of the Department of Aging, and we'll ask you what your  
27 qualifications are for this position.

28 MR. MARTINEZ: Thank you, Mr. Chairman, Members.





1 I've been involved with state government at the  
2 policy level since the mid-70s, most recently as the director of  
3 a department that administers federal dollars targeted  
4 specifically for those most at risk, most needy, through a  
5 network of community-based organizations. Primarily I've done  
6 that over the last eight years through the leadership as  
7 Director of the Department of Economic Opportunity.

8 Most recently, I've been, obviously, involved with  
9 another network, and that network is the Area Agency -- Agencies  
10 on Aging. I believe that my background has made me very  
11 qualified to serve in this capacity, not only -- not only to  
12 administer these programs, but hopefully to bring together  
13 organizations that have not been given the opportunity or had  
14 the right kind of a forum to work together. We're talking about  
15 organizations that serve the needs of seniors at the local level  
16 in an effort to try to maintain their independence through  
17 providing nutrition programs, adult day health care services,  
18 intergenerational programs that help both the needs of seniors  
19 as well as the needs of the young at risk, and a number of  
20 programs that seek to maintain the dignity of the individual by  
21 maintaining their independence.

22 We think that we -- we're very excited by the number  
23 of initiatives that we are spearheading, and obviously I hope to  
24 be able to continue in those initiatives in the future.

25 CHAIRMAN ROBERTI: Some Legislators have contacted me  
26 recently concerned about the actions of your department  
27 regarding the interstate funding formula and what the final  
28 solution on that is going to be. So, it is a current issue.



1 MR. MARTINEZ: Yes.

2 CHAIRMAN ROBERTI: I would like to to know what your  
3 proposals are for this and where you're moving.

4 MR. MARTINEZ: Yes.

5 We have been working very closely with both the Area  
6 Agencies and legislative leadership, specifically --  
7 Legislature's leadership -- specifically the leadership and  
8 guidance of Senator Mello as well as Assemblyman Costa. And in  
9 that process, we've been trying to create forums where  
10 everyone's input is taken, is allowed to be aired, and in that  
11 context we have been working, trying to facilitate a narrowing  
12 of the issues. We have been successful.

13 This has been a process that has been slow and  
14 painful, but it has been productive. We've been successful in  
15 identifying areas of agreement, factors that need to be in the  
16 formula, weighting versus percentages, taking a look at the fact  
17 that the federal courts have dealt with this issue.

18 The Federal Administration on Aging is -- has changed  
19 from a review to a review and approval mode, and so we're  
20 waiting for guidance from them.

21 All of that has given us impetus to try and see if we  
22 can coalesce issues, and that is what we are now doing.

23 We sent out a survey this week to try to reaffirm  
24 where we thought we were the last time the Area Agencies got  
25 together, and where we were in terms of the meetings with the  
26 task force that's working very closely with Senator Mello and  
27 Assemblyman Costa. In retrospect, we probably asked too much,  
28 but a number of questions have been asked of us, and so we tried





1 to use the survey as a forum to try and get as much input as  
2 possible for next week's meeting. We continue to seek that  
3 input. Next week's meeting is one more continuum in the process  
4 of trying to come up with an ultimate consensus which we, then,  
5 will compare with where we are right now.

6 So, I cannot speak to where the Administration  
7 ultimately will be, but I in no way am attempting to arbitrarily  
8 narrow the choices. I'm trying to be as facilitative as  
9 possible, and we have in no way made a final decision. We have  
10 absolutely not.

11 And so, we'll continue with this process. We look  
12 forward to meeting with the Area Agencies next week and just  
13 continue this process.

14 CHAIRMAN ROBERTI: Very good.

15 Are there any other questions of Mr. Martinez?

16 MR. MARTINEZ: Senator, I might add, since I'm here,  
17 one benefit that I've had is, you know, oftentimes we are put in  
18 challenging positions, but this position not only has been  
19 challenging, but it has been personally very gratifying  
20 primarily because of the opportunity of working with such  
21 dedicated support organizations in the local communities. That  
22 for me has been a very personally satisfying opportunity,  
23 working with nutrition programs, adult day health care programs,  
24 Alzheimer's programs, and also the other affiliated  
25 organizations like the Senior Gleaners here in Sacramento, and  
26 the area Councils on Aging, as well as the area Commissions on  
27 Aging. I'm very appreciative of that.

28 CHAIRMAN ROBERTI: A number of the Governor's





1 proposals -- and we recognize the need to balance the budget --  
2 however, deal with cutbacks in services for the aging. The list  
3 seems to be endless: incontinent supplies for the elderly,  
4 Alzheimer's service centers.

5 I guess I have two questions. What's your advocacy  
6 position within the Administration on this, and also if we do  
7 have to cut back, do you have contingency plans?

8 MR. MARTINEZ: First of all, my advocacy position  
9 remains very clear, and I continue to speak for our programs as  
10 vital and -- and absolutely necessary programs.

11 This is what we presented at the time that we were  
12 putting together the galleys and putting together the budget.  
13 And as -- and the Governor made a commitment in our programs and  
14 did not present in his budget any cuts in our programs. And we  
15 -- this is something that we have made very clear to the Area  
16 Agencies, that in a time when General Funds are scarce at best,  
17 that the Governor has made a commitment to continue to fund  
18 these programs.

19 And we'll -- for my part, I'm continuing to look at  
20 the potential of other ways to work with other departments in  
21 the Health and Welfare Agency to better serve the needs of our  
22 senior population, and I believe that there can be better ways  
23 to serve those populations by working in better collaboration  
24 with Health Services and Mental Health as well as some of the  
25 other departments.

26 CHAIRMAN ROBERTI: Senator Ayala.

27 SENATOR AYALA: This question is more of a personal  
28 nature than anything else.



1           You're a relatively young fellow. Your degree is in  
2       Communications/Broadcast Journalism.

3           MR. MARTINEZ: Yes.

4           SENATOR AYALA: And you evolved into the problems of  
5       the aging, interesting.

6           MR. MARTINEZ: I believe that I evolved into this  
7       because of the fact that I've had extensive experience in  
8       working with community-based organizations. In fact, Senator,  
9       for the last eight years in some -- in a lesser degree, I've  
10      already been working with a number of organizations,  
11      municipalities as well as private nonprofits, that do already  
12      serve the needs of the senior populations in our various  
13      communities.

14          So, it became something that I was aware of and  
15      developed a keener interest in. And so, when the -- when the  
16      opportunity presented itself and I was asked to consider this --  
17      this particular position, I saw it as something that was very  
18      much something that I personally wanted to do.

19          I've always -- I've been involved with the Senior  
20      Gleaners privately for the last eight or nine years as a member  
21      of their Advisory Board. The work that they do with their 2,000  
22      volunteers, day in and day out, in gathering food for  
23      distribution by some 90 local agencies here in the Sacramento  
24      area, to me is something that I think too many people don't know  
25      about, but I don't know where we would be without that kind of  
26      commitment by those seniors.

27          But it's a two-way street. There are untold stories  
28      about how the personal, individual pride of those seniors has



1 been enhanced by knowing that they're contributing to their  
2 community. And I think it's that kind of awareness of what it  
3 is -- the vital resources of our seniors that kind of steered me  
4 in this direction, and hopefully there's been an acknowledgment  
5 by the communities.

6 SENATOR AYALA: Thank you.

7 CHAIRMAN ROBERTI: Any further discussion?

8 SENATOR AYALA: I'll move.

9 CHAIRMAN ROBERTI: Senator Ayala moves --

10 SENATOR AYALA: I'll move that Mr. Martinez be  
11 confirmed as Director of the Department of Aging.

12 CHAIRMAN ROBERTI: -- that Mr. Martinez be confirmed  
13 as Director of the Department of Aging.

14 Any opposition? Last chance.

15 Seeing none, Secretary, call the roll.

16 SECRETARY WEBB: Senator Ayala.

17 SENATOR AYALA: Aye.

18 SECRETARY WEBB: Ayala Aye. Senator Beverly.  
19 Senator Petris.

20 SENATOR PETRIS: Aye.

21 SECRETARY WEBB: Petris Aye. Senator Craven.  
22 Senator Roberti.

23 CHAIRMAN ROBERTI: Aye.

24 The vote is three to zero; confirmation is  
25 recommended to the Floor.

26 Congratulations.

27 MR. MARTINEZ: Thank you, Senator.

28 [Thereupon this portion of the  
Senate Rules Committee hearing  
was terminated at approximately  
2:40 P.M.]

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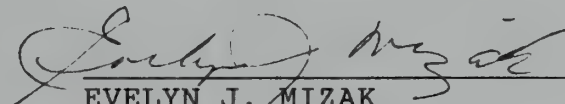
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That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 20<sup>th</sup> day of May, 1993.

  
EVELYN J. MIZAK  
Shorthand Reporter





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STATE OF CALIFORNIA



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18 WEDNESDAY, MAY 26, 1993  
19 1:55 P.M.  
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25 Reported by:  
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27 Evelyn J. Mizak  
28 Shorthand Reporter



APPEARANCES

MEMBERS PRESENT

SENATOR DAVID ROBERTI, Chair

SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR RUBEN AYALA

SENATOR ROBERT BEVERLY

MEMBERS ABSENT

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

CHARLES R. IMBRECHT, Member  
State Energy Resources Conservation and  
Development Commission

SENATOR HERSCHEL ROSENTHAL

SENATOR QUENTIN KOPP

JAMES C. WATSON, Member  
California Horse Racing Board



INDEX

	<u>Page</u>
Proceedings . . . . .	1
<u>Governor's Appointees:</u>	
CHARLES R. IMBRECHT, Member State Energy Resources Conservation and Development Commission . . . . .	1
Statement of Support by SENATOR HERSCHEL ROSENTHAL . . . . .	1
Statement of Support by SENATOR QUENTIN KOPP . . . . .	1
Motion to Confirm . . . . .	2
Committee Action . . . . .	2
JAMES C. WATSON, Member California Horse Racing Board . . . . .	3
Background and Experience . . . . .	3
Questions by SENATOR AYALA re:	
Increase in Betting Revenues through Satellite Wagering . . . . .	4
Increase in Revenue with Night Racing . . . . .	4
Motion to Confirm . . . . .	5
Statement by CHAIRMAN ROBERTI on Abstaining Vote . . . . .	5
Committee Action . . . . .	6
Termination of Proceedings . . . . .	6
Certificate of Reporter . . . . .	7





## P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN ROBERTI: Mr. Imbrecht, please come forward.  
Senator Rosenthal is here.

SENATOR ROSENTHAL: My remarks will be very brief.

I have to tell you that as the Chairman of the Energy and Public Utilities Committee, I've found Chuck Imbrecht to be a good candidate for renomination. We've worked well together even on difficult issues.

I understand that there's going to be a recommendation for reorganization in the Energy Commission. I can think no one better able to do that than Mr. Imbrecht. And I'm hoping that when the decision is made about how to reorganize, that my bill might very well be used that's moving along to bring about that reorganization.

But I think he's a fine gentleman.

CHAIRMAN ROBERTI: Thank you, good recommendation.  
Senator Kopp.

SENATOR KOPP: May I be heard, Mr. Chairman.

It's fortuitous that Mr. Imbrecht's nomination is before the Committee today, and I'm pleased to associate myself with Senator Rosenthal and all others who respect and admire Mr. Imbrecht.

I have known him superficially since he was an Assemblyman, but I've known him more intimately as a Member of the Senate and since he became Chairman of the Energy Commission.

I've had the pleasure of being involved in some



1 policy transactions, and discussions, and activities in which he  
2 has displayed just an extraordinary regard for people, unlike so  
3 many administrative officials of the genre which I think Senator  
4 Torres characterizes as "burrocrats". Mr. Imbrecht is a happy  
5 antidote to that kind of characterization.

6 I would urge Committee approval of a man whose work  
7 and whose impeccable conscientiousness is well known to the  
8 Members of the Committee, probably better than it is even to me.

9 Thank you.

10 CHAIRMAN ROBERTI: Thank you, Senator.

11 MR. IMBRECHT: The defense rests.

12 CHAIRMAN ROBERTI: I think you can rest on that. I  
13 think everybody has followed your work fairly closely and is  
14 very happy with it.

15 Do I hear a motion?

16 SENATOR BEVERLY: Move.

17 CHAIRMAN ROBERTI: Senator Beverly moves.

18 Any opposition in the audience?

19 Secretary, call the roll.

20 SECRETARY WEBB: Senator Ayala.

21 SENATOR AYALA: Aye.

22 SECRETARY WEBB: Ayala Aye. Senator Beverly.

23 SENATOR BEVERLY: Aye.

24 SECRETARY WEBB: Beverly Aye. Senator Petris.  
25 Senator Craven. Senator Roberti.

26 CHAIRMAN ROBERTI: Aye.

27 The vote's three to nothing; confirmation is  
28 recommended to the Floor.



1 MR. IMBRECHT: Thank you, Mr. Chairman. I know when  
2 to quit. Thank you very much.

3 CHAIRMAN ROBERTI: We're going to take a five minute  
4 recess.

5 [Thereupon a brief recess was taken.]

6 SENATOR CRAVEN: We'll take up Mr. Watson.

7 Mr. Watson, we'll ask you, as we ask each of the  
8 nominees, why you feel you're qualified for this position?

9 MR. WATSON: Thank you, Senator.

10 I've -- for a couple of reasons, I suppose, I've been  
11 in and around the periphery of this industry for sometime with  
12 no direct involvement in horse ownership or race track  
13 operation, but rather indirectly through some business  
14 interests.

15 I think I understand the different factions,  
16 different groups, within the industry that need to operate  
17 compatibly, perhaps more compatibly in the future.

18 Secondly, I have a strong business background, and  
19 this is an industry that faces some grave problems and issues  
20 today that need to be addressed. I think, perhaps, they are  
21 more business issues than they are fundamental horse racing  
22 issues, and that is the revenues and attendance are declining,  
23 and something has to be done about that from both a marketing  
24 point of view and a technological point of view.

25 I suppose lastly, I have the time and the interest to  
26 make this commitment.

27 SENATOR CRAVEN: Very well.

28 Senator Ayala.





1           SENATOR AYALA: I'd like to ask if there's been an  
2 additional increase of bettors throughout California, has it  
3 increased by satellite wagering in all parts of the state, and  
4 especially in my district, has that satellite wagering increased  
5 extra activity?

6           MR. WATSON: Yes, if I understood the question.

7           Off-track satellite wagering and increased the  
8 aggregate of dollars waged but has decreased on-track  
9 attendance. So, in the aggregate it's been helpful, but for  
10 on-track it's probably been damaging.

11           However, I do believe that that is the future. That  
12 is one of the turn-around elements of this industry, and that is  
13 to pursue other markets and more broadly attempt to attract a  
14 new patron base through more satellite and off-track wagering.

15           SENATOR AYALA: We now have night racing for harness  
16 and quarter horses. Has that increased revenues, by holding  
17 races at night?

18           MR. WATSON: Well, my first monthly board meeting was  
19 the month that Hollywood Park applied for their Friday  
20 thoroughbred racing meet, and personally, I think that night  
21 racing is yet another way to attract a new patron base. I think  
22 -- and the answer is, it has positively impacted the industry.

23           Hollywood Park is conducting Friday night  
24 thoroughbred racing, and it has had very positive results, and  
25 the concept there is, there are potential race track patrons  
26 that are unavailable during business hours but that are  
27 interested in attending at night as a form of entertainment.

28           So, I think night racing is good for the industry and



1 should be pursued.

2 SENATOR AYALA: Thank you.

3 SENATOR CRAVEN: Senator Beverly?

4 SENATOR BEVERLY: No questions.

5 SENATOR CRAVEN: Is there anyone in the audience who  
6 wishes to speak in favor or in opposition of the candidate?

7 There appears to be none.

8 SENATOR BEVERLY: Move we recommend confirmation.

9 SENATOR CRAVEN: Senator Beverly moves.

10 Call the roll.

11 SECRETARY WEBB: Senator Ayala.

12 SENATOR AYALA: Aye.

13 SECRETARY WEBB: Ayala Aye. Senator Beverly.

14 SENATOR BEVERLY: Aye.

15 SECRETARY WEBB: Beverly Aye. Senator Petris.

16 Senator Craven.

17 SENATOR CRAVEN: Aye.

18 SECRETARY WEBB: Craven Aye. Senator Roberti.

19 Three to zero.

20 SENATOR CRAVEN: Let's keep the roll open.

21 MR. WATSON: Thank you very much.

22 CHAIRMAN ROBERTI: Senator Craven moves that the call  
23 be lifted.

24 If I might explain my abstention on the matter, I do  
25 not want to cast a vote in opposition to Mr. Watson this  
26 afternoon, and we do have to process this appointment.

27 However, I reserve judgment on the Floor. I am a  
28 little bit concerned about the problems Ms. Ferraro faced in



1  
2 whistle-blowing in the whole issue of the doping question at the  
3 Horse Race Board. Her feeling is that some people want to  
4 eliminate her position.

5 I just don't think that's the kind of thing that we,  
6 even if we had three hours -- it would be "he said-she said"  
7 kind of situation. But I think I'm going to let this nomination  
8 percolate on the Floor a little bit, and if we get any more  
9 information that there was any pressure -- and I'm not saying  
10 there was -- on Ms. Ferraro, or an attempt to have her not  
11 appointed because she was the whistle blower, then I would ask  
12 for the nomination to be returned to the Committee.

13 I don't have that kind of information now, and I  
14 would hate to get into a "he said-she said" kind of situation,  
15 which sheds no light, because I think that's just where we are  
16 as far as any information we have.

17 So, Secretary call the absentees.

18 SECRETARY WEBB: Senator Petris. Senator Roberti.

19 CHAIRMAN ROBERTI: The vote is three to nothing;  
20 confirmation is recommended to the Floor.

21 [Thereupon this portion of the  
22 Senate Rules Committee hearing  
23 was terminated at approximately  
24 2:30 P.M.]

25 --oo0oo--  
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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 26<sup>th</sup> day of May, 1993.

  
EVELYN J. MIZAK  
Shorthand Reporter





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Evelyn J. Mizak  
Shorthand Reporter



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SENATOR WILLIAM CRAVEN, Vice Chair  
SENATOR RUBEN AYALA  
SENATOR ROBERT BEVERLY  
SENATOR NICHOLAS PETRIS

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PAT WEBB, Committee Secretary  
RICK ROLLENS, Consultant on Bill Referrals  
NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

RAY T. BLAIR, Member  
Alcoholic Beverage Control Appeals Board  
ED DAVIS, Member  
Alcoholic Beverage Control Appeals Board  
JOHN B. TSU, Member  
Alcoholic Beverage Control Appeals Board  
SENATOR WADIE DEDDEH  
CAROL HENRY, Ph.D., Director  
Office of Environmental Health Hazard Assessment  
California Environmental Protection Agency  
SENATOR CHUCK CALDERON  
KEN WISEMAN  
Klein-Wegis Law Firm  
Bakersfield  
DORSEY HOLLAND  
Southbay Anglers For Environmental Rights (SAFER)



APPEARANCES (Continued)

WENDALL CHIN, Field Organizer  
Citizens for a Better Environment

KALON WOFFORD  
Southbay Anglers For Environmental Rights (SAFER)





INDEX

	<u>Page</u>
Proceedings . . . . .	1
<u>Governor's Appointees:</u>	
Members of the Alcoholic Beverage Control Appeals Board (All Taken Together)	
Statement in Support of BLAIR Confirmation by SENATOR WADIE DEDDEH . . . . .	1
ED DAVIS . . . . .	1
Background and Experience . . . . .	2
JOHN B. TSU . . . . .	3
Background and Experience . . . . .	3
RAY T. BLAIR . . . . .	4
Background and Experience . . . . .	4
Questions by CHAIRMAN ROBERTI re:	
Proliferation of Liquor Licenses in Minority Areas . . . . .	5
Questions by SENATOR AYALA re:	
Status of Liquor License after Business Is Destroyed by Rioting . . . . .	8
Permission Needed to Move to Different Location . . . . .	9
Motion to Confirm All Three Appointees . . . . .	10
Committee Action . . . . .	11
CAROL HENRY, Ph.D., Director Office of Environmental Health Hazard Assessment California Environmental Protection Agency . . . . .	11
Introduction and Statement in Support by SENATOR CHUCK CALDERON . . . . .	11
Background and Experience . . . . .	14



INDEX (Continued)

Questions by SENATOR AYALA re:

Willingness to Work with Minority and Immigrant Fishing Community . . . . .	16
Assurance that Fish Advisory Will Be Posted in Appropriate Languages . . . . .	16
Responsibility for Posting of Fish Advisories . . . . .	17
Testing of Fish Commonly Caught and Consumed in Bay/Delta Region . . . . .	18

Questions by CHAIRMAN ROBERTI re:

Charge that Prop. 65 Science Advisory Panel Is Not Independent . . . . .	19
Number of Chemicals Initially Listed . . . . .	19
Attempt to Reconfigure Science Advisory Board . . . . .	20
Opinion on Suggestion to Specifically State Chemical Involved when Posting under Prop. 65 . . . . .	21
Repeal of Regulation Exempting Food, Drugs, Cosmetics, and Medical Devices Meeting Federal Safety Standards . . . . .	22
Adequacy of Current Regulatory Standards for Allowable Exposures to Toxics . . . . .	23

Witness in Support:

KEN WISEMAN, Former Undersecretary Cal-EPA Bakersfield . . . . .	24
--	----

Witnesses with Concerns:

DORSEY HOLLAND SAFER . . . . .	25
WENDALL CHIN, Field Organizer Citizens for a Better Environment . . . . .	26
KALON WOFFORD SAFER . . . . .	28



INDEX (Continued)

Response by DR. HENRY . . . . .	31
Questions by SENATOR CRAVEN re:	
Evidence of Problems Due to Consumption of Contaminated Fish . . . . .	31
Number of Languages Spoken among Fishermen in San Francisco . . . . .	32
Responsibility for Posting of Fish Advisories .	33
Motion to Confirm . . . . .	34
Committee Action . . . . .	35
Termination of Proceedings . . . . .	35
Certificate of Reporter . . . . .	36





## P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN ROBERTI: We have on our agenda this afternoon the confirmation of the Governor's appointments to the Alcoholic Beverage Control Appeals Board, and they are, in alphabetical order: Mr. Ray T. Blair, Member of the Alcoholic Beverage Control Appeals Board; former Senator Ed Davis, Member of the Alcoholic Beverage Control Appeals Board; and John B. Tsu, Member of the Alcoholic Beverage Control Appeals Board.

Why don't we take all three up at the same time, and Senator Deddeh would like to come forward as well. So, Senator Davis, Mr. Blair and Dr. Tsu, why don't you come on up, too.

Senator Deddeh would like to speak to behalf of one of the appointments, maybe all three.

SENATOR DEDDEH: Maybe.

Mr. Chairman and Members, I wish I knew enough about Dr. Tsu, I would say the same things.

I don't think Senator Davis needs any support from any one of us. He's one of us, and he always will be as a State Senator. I need not tell you that he is probably one of the best gentlemen with whom I had the privilege of serving, and I know that he will have a very favorable recommendation from this Committee.

I am here officially, Mr. Chairman, on behalf of Ray Blair. And I'm not here just because he happens to be a San Diegan. I do not come and testify on their behalf.

I am here because I know this man. He served the City of San Diego very well under two mayors. In our system of



1 city government, it's a managerial system, and he ran that city  
2 in a very professional manner. I've heard complaints about  
3 members of the City Council, and his predecessors, his  
4 successors, but I have yet -- and I have lived in the City of  
5 San Diego in that area 34 years -- I have yet to hear any type  
6 of criticism of this man's management.

7 And so, I am here to lend him my support and to tell  
8 you, Mr. Chairman, that he will be a perfect addition to the  
9 Appeals Control Board of Alcoholic Beverages Control. And that  
10 is really my recommendation.

11 As you know, we're so busy and I've got to go and  
12 testify before another committee.

13 CHAIRMAN ROBERTI: Thank you very much, Senator. We  
14 appreciate your coming.

15 We're going to ask the appointees why they feel  
16 they're qualified to assume this position.

17 Senator Davis we know so very well. I'm almost  
18 embarrassed to ask you the question, but for the sake of  
19 formality, Senator, why don't we start with you, and you can be  
20 very brief.

21 SENATOR DAVIS: I didn't learn that in the Senate.

22 [Laughter.]

23 CHAIRMAN ROBERTI: No, I know that. None of us have.

24 SENATOR DAVIS: Well, when you really examine what  
25 you're qualified for, no one's totally qualified for anything,  
26 including the Presidency.

27 But I think probably, having been a police officer  
28 for 37 years, and seeing the enforcement side, and seeing vice



1 and so forth, that that's a recommendation.

2 Then sitting in the Senate for 12 years, listening  
3 with big ears as Vice Chairman of the Senate Judiciary Committee  
4 to all kinds of people with problems, and looking at all sides  
5 -- and I had to look at all sides, because the Democrats were in  
6 the majority -- and I think those two things would say that I  
7 wouldn't be going in there as a babe in the woods, and I think I  
8 can do the job.

9 I would appreciate your confidence in me.

10 CHAIRMAN ROBERTI: Thank you very much, Senator.

11 Dr. Tsu.

12 DR. TSU: Thank you, Senator.

13 I feel I'm qualified for the Board because my  
14 background of law, I was a student of law; have been supporting  
15 the doctrine of fairness, justice and equal treatment by law.

16 I think when the Board has me to serve the Board as a  
17 member, it makes the party feel that there's justice, fairness,  
18 equal treatment exists there in the Board.

19 And then I see a large number of minority, ethnic  
20 minority cases involved in the Appeals Board. Being an ethnic  
21 minority, I'm a Chinese, there are a number of Hispanics, I  
22 speak a good number of other ethnic languages. There's Hispanic  
23 cases, Korean cases, Chinese cases. I think I know the  
24 mentality, psychology, practice of business, so make them feel  
25 that there exists some fairness, justice. And minority member  
26 on the Board make them feel comfortable, and make the Board  
27 really serve well.

28 I appreciate the confirmation by the Senators. Thank







1 you.

2 CHAIRMAN ROBERTI: Thank you very much, Doctor.

3 And finally, Mr. Blair.

4 MR. BLAIR: Thank you very much.

5 I'm a native San Diegan, a native Californian. I  
6 love this state. I love the city in which I have had a  
7 wonderful career opportunity in private enterprise as well as  
8 with the City of San Diego.

9 I believe that the service on this Board provides me  
10 with an opportunity to give back to the State of California a  
11 little bit of some of the things that the state has given to me  
12 in my lifetime.

13 I've had management experience. I've had police  
14 departments reporting to me; selected police chiefs and promoted  
15 people within the department to create a community-oriented  
16 understanding policy department.

17 And I believe that the management experience, the law  
18 enforcement experience from a management standpoint, the  
19 understanding of problems of people trying to make a living to  
20 try to make their businesses grow and prosper are things that  
21 will allow me to provide good service to the state on this  
22 Board.

23 And I am privileged to be here today. I'm also  
24 privileged to have been appointed by the Governor, and hope to  
25 serve this Board to the betterment of the state.

26 CHAIRMAN ROBERTI: Thank you very much.

27 A major issue in the Los Angeles area right now is  
28 the -- and I'm sure maybe some of our other urban areas -- the



1 proliferation of alcohol licenses in especially some of the  
2 minority areas. And it's caused a number of problems, from  
3 crime problems to ruptures between the ethnic communities.

4           We've had different suggestions on what to do about  
5 it.

6           Do you think that the problem can be handled  
7 administratively, through the mechanism of the ABC? Do you  
8 think further legislation is necessary?

9           Some of the legislation that has been proposed even  
10 includes not allowing people to re-establish their license in  
11 areas where the business may have been destroyed.

12           So, I'd like to hear your comments on that range of  
13 issues, because it really is a very important issue.

14           SENATOR DAVIS: If I may proceed, Senator Roberti, I  
15 think the issue of what appears to be an over licensing,  
16 particularly in depressed minority communities, is complicated  
17 by the same things that afflict our trying to do something about  
18 a proliferation of billboards.

19           You have a property right, and so you can't take a  
20 man's billboard away unless you compensate him for what that  
21 present and future value would be in terms of income.

22           Certainly, the state is in no position to buy up. I  
23 think some day when prosperity returns to California, and we  
24 have an obscene \$15 billion surplus, that you should think --

25           CHAIRMAN ROBERTI: The good old days.

26           SENATOR DAVIS: -- you should think about retiring  
27 some of those licenses, because we sit and listen to the  
28 protestants from minority areas who have all kinds of other



1 problems, and on top of it, there's a beer bar 105 feet away  
2 from where they live. And there's all the people who come there  
3 and litter the premises.

4           The other side of the argument is that they employ  
5 people. They pay sales tax. What impact is it going to have on  
6 the business climate of California?

7           I think it deserves more than interim study. I think  
8 it deserves some real looking into by maybe the Senate Office of  
9 Research, if there still is a Senate Office of Research.

10           CHAIRMAN ROBERTI: Yes, fragmented, but we still have  
11 one, right.

12           SENATOR DAVIS: It's a very complicated problem.

13           I think the people have a just complaint: why do you  
14 do this to me? But it's not as simple as just waving a magic  
15 wand and saying, "We're going to reduce them in half." Probably  
16 if we had 10% in some areas of what we have now, it would  
17 adequately serve the clientele.

18           CHAIRMAN ROBERTI: Dr. Tsu.

19           DR. TSU: Yes, Senator.

20           I don't think we need a new legislation. I think the  
21 current legislation is sufficient.

22           What we need to be done is the ABC Department to take  
23 a strong, firm attitude, tightening the granting of a license  
24 on the ground of a public, and so on, so forth. So, I think in  
25 that way it will serve the purpose.

26           Because in the hearing today and other occasions,  
27 Senators and other Legislators may express their wishes, and  
28 the Executive Branch will hear the wishes and they will







1 tightening the granting of license.

2 CHAIRMAN ROBERTI: Thank you, Doctor.

3 Mr. Blair.

4 MR. BLAIR: Sir, I agree totally with John Tsu. I  
5 don't believe that there should be legislation which limits,  
6 puts a cap on, or whatever the right words are, the number of  
7 licenses per se, because that in effect is granting a right or  
8 an edge to the people who are holders of liquor licenses, and  
9 it's not the kind of thing that I would like to see happen.

10 CHAIRMAN ROBERTI: Even in a given area?

11 MR. BLAIR: I don't think that legislation is the way  
12 to get at it.

13 It seems to me that the ABC and its ability to watch,  
14 to see if laws are being broken, to listen to the people in the  
15 area, and to take the steps which are applicable to those  
16 licensees, and to take it with a firm hand, is the way to go  
17 rather than to put a cap on licenses, which I just don't --  
18 don't happen to agree with.

19 But I do think that in terms of new licenses, it's  
20 imperative that the people in the neighborhood be listened to  
21 and that their wishes be taken into account. And that's the way  
22 I'd go about it.

23 CHAIRMAN ROBERTI: So, you would set up a different  
24 standard, which is, I guess, very understandable, as between new  
25 licenses and what you do with the existing licenses.

26 MR. BLAIR: Exactly.

27 CHAIRMAN ROBERTI: And Senator Davis hopes one day  
28 we'll have enough money to start retiring some of them.



1 Senator Ayala.

2 SENATOR AYALA: I have a question.

3 This is regarding the problems that were caused after  
4 the riots in Los Angeles because of Rodney King's trial. A lot  
5 of businesses were -- maybe this question's been asked before I  
6 arrived today -- but a lot of the businesses had been destroyed,  
7 and a lot of them were liquor stores.

8 Do they automatically get the license back when the  
9 buildings are restored, or do they have to resubmit it to you  
10 folks again, a liquor license?

11 SENATOR DAVIS: They own as a proprietary right --

12 SENATOR AYALA: I'm sorry?

13 SENATOR DAVIS: They own the license. They paid for  
14 it. It has a certain value in dollars.

15 And they can take that license, with the permission  
16 of ABC, to another location. And as soon as something is  
17 rebuilt, they could re-establish their business there.

18 SENATOR AYALA: There's no problem in restoring that  
19 business with the original license, even though --

20 SENATOR DAVIS: No, because they don't lose that.  
21 The license doesn't burn. The license is in your name as a  
22 licensee. You have a right to sell it to somebody else with the  
23 approval of ABC.

24 Everything else could burn, but you have that  
25 treasure, whatever the value of that license is. And it's up to  
26 you, then, to put the business back together.

27 SENATOR AYALA: So, they have a vested interest and  
28 they retain that license, although the building location was



1 destroyed. When they make the repairs, they can go back in  
2 business with the same license?

3 SENATOR DAVIS: Yes, the state is not -- because of  
4 the laws, and I think it's in the Constitution, you have this  
5 right of ownership. You'd have to change the Constitution to  
6 change that.

7 SENATOR AYALA: If you want to move that to another  
8 location, they'd have to come to you folks one more time?

9 SENATOR DAVIS: They'd have to come not to us,  
10 because we're the Appeals Board. They have to come to the ABC  
11 Department and get the approval of the transfer.

12 I might say, Mr. President, that we have some  
13 supporters here today, and I will introduce Bobbie.

14 CHAIRMAN ROBERTI: Very good, your number one  
15 supporter.

16 SENATOR DAVIS: Hold your hand up, Bobbie. Do you  
17 support me?

18 [Laughter.]

19 CHAIRMAN ROBERTI: Bobbie Davis, Mrs. Davis, we're  
20 very glad to have you here in the Senate once again.

21 MR. BLAIR: Senator, I'd like to take this  
22 opportunity to introduce my wife, Sue Blair, who is here with me  
23 today.

24 CHAIRMAN ROBERTI: Mrs. Blair, it's very nice to have  
25 you also with us.

26 DR. TSU: I didn't ask anyone to come to support me.

27 [Laughter.]

28 CHAIRMAN ROBERTI: You're in real trouble, Doctor.





1 DR. TSU: But Senator Milton Marks, Senator Quentin  
2 Kopp, Senator Becky Morgan are all my good friends.

3 CHAIRMAN ROBERTI: Is there anyone else here in  
4 support? Is there anyone here in opposition?

5 Do I hear a motion?

6 SENATOR CRAVEN: Move.

7 SENATOR BEVERLY: One comment, Mr. Chairman.

8 CHAIRMAN ROBERTI: Senator Beverly.

9 SENATOR BEVERLY: It's nice to see younger men coming  
10 into government.

11 [Laughter.]

12 MR. BLAIR: That's a wonderful comment.

13 The other day in one of the meetings of this Board, I  
14 leaned over to our distinguished Chair and said, "I need to say  
15 something to that attorney," who was there on behalf of his  
16 client.

17 So the Chairman, this gentleman over here, said,  
18 "Wait a minute, everybody. Hold everything. The kid has  
19 something to say." And he looked my way, and I looked the same  
20 way that he was looking, because I thought he was talking about  
21 a youngster, and he was talking about me.

22 It's the first time I've been called "the kid" in  
23 probably 40 years, and boy, did I love it.

24 [Laughter.]

25 SENATOR CRAVEN: I have moved.

26 CHAIRMAN ROBERTI: Senator Craven moves the  
27 confirmations of Ray Blair, Ed Davis, and John Tsu to the  
28 Alcoholic Beverage Control Appeals Board.



1 Secretary will call the roll.

2 SECRETARY WEBB: Senator Ayala.

3 SENATOR AYALA: Aye.

4 SECRETARY WEBB: Ayala Aye. Senator Beverly.

5 SENATOR BEVERLY: Aye.

6 SECRETARY WEBB: Beverly Aye. Senator Petris.

7 Senator Craven.

8 SENATOR CRAVEN: Aye.

9 SECRETARY WEBB: Craven Aye. Senator Roberti.

10 CHAIRMAN ROBERTI: Aye.

11 The vote is four to zero; the confirmations are  
12 recommended to the Floor.

13 Thank you for coming and congratulations.

14 SENATOR DAVIS: Thank you very much.

15 CHAIRMAN ROBERTI: We have one more confirmation.  
16 Senator Calderon is here for Dr. Henry, Dr. Carol Henry,  
17 confirmation as Director of the Environmental Health Hazard  
18 Assessment, California Environmental Protection Agency. She's  
19 going to be introduced by Senator Chuck Calderon.

20 I would also like to mention the presence of Dr.  
21 Timothy Henry and daughter Vicky who are in the audience. We're  
22 very glad to have you both with us today in the Senate Rules  
23 Committee.

24 Senator Calderon.

25 SENATOR CALDERON: Mr. Chairman and Members, today it  
26 is with great pleasure that I recommend to you for confirmation  
27 Dr. Carol Henry as the Director of the California Environmental  
28 Protection Agency's Office of Environmental Health Hazard



1 Assessment, otherwise known as OEHHA.

2           Although many of us may not have had a full awareness  
3 of this small scientific arm of Cal-EPA until Dr. Henry recently  
4 came, introducing herself to us, OEHHA plays a vital role in the  
5 formation of state environmental protection and public health  
6 policy. OEHHA provides scientific, technical, and public health  
7 expertise in assessing the human health risks of chemicals in  
8 the environment. It is responsible for developing and providing  
9 risk managers in state and local governmental agencies with  
10 toxicological and medical information relevant to decisions  
11 involving public health.

12           State agency users of such information include all  
13 boards and departments within Cal-EPA, as well as: the  
14 Department of Health Services, the Department of Food and  
15 Agriculture, the Office of Emergency Services, the Department of  
16 Fish and Game, and the Department of Justice. OEHHA also works  
17 for federal agencies, the scientific community, industry, and  
18 the general public on issues of environmental and public health  
19 information.

20           While Dr. Henry is still new to Sacramento, she has  
21 already demonstrated that she is open and accessible to all  
22 sides of scientific debate. She will be instrumental to the  
23 administration and to the Legislature in interpreting the  
24 scientific data that is so often presented before us. She is  
25 willing to engage in meaningful scientific dialogue, but able to  
26 sort out the science from the science fiction.

27           During the course of her career, Dr. Henry has  
28 developed and maintained excellent relationships throughout the





1 national and international scientific community. She has  
2 received the strong endorsement of her colleagues from academia,  
3 to industry, to environmental and public health protection  
4 agencies. Of particular importance to California, Dr. Henry's  
5 access to the highest levels of the federal scientific community  
6 will be essential to communicating and implementing the state's  
7 position on vital scientific and public health issues.

8 Dr. Henry's diverse scientific background brings the  
9 multidisciplinary approach necessary for the coordination of  
10 Cal-EPA's risk assessment efforts and the development of sound  
11 and consistent scientific policy.

12 I would point out also, Mr. Chairman, that I am aware  
13 of the issue relative to information regarding contamination of  
14 striped bass. Dr. Henry is an information -- primarily an  
15 information agency, would have no jurisdiction relative to that  
16 issue. However, because she is the person that she is, she  
17 didn't want to be another noncaring, nonresponsive governmental  
18 agency and has been doing everything within her power to work  
19 with members of the Southeast Asian community and Pacific  
20 Islander community to try and address this issue.

21 I believe this recommends her to this Committee for  
22 confirmation, and it is with that that I urge your unanimous  
23 support of Dr. Henry's confirmation.

24 Thank you very much.

25 CHAIRMAN ROBERTI: Thank you very much, Senator.

26 Doctor, we'll ask you what we ask all the Governor's  
27 appointees, and that's why you feel you're qualified to assume  
28 this position?



1 DR. HENRY: Thank you very much, Senator Roberti and  
2 Members of the Senate Rules.

3 I am very honored and pleased to be here as the  
4 Governor's appointee.

5 As Senator Calderon mentioned, I've been only in  
6 California a short time, but the warmth and enthusiasm with  
7 which I've been greeted has just been overwhelming to me.

8 Because the position I am being considered for is a  
9 scientific one, I thought I would go over very briefly what my  
10 scientific credentials are, and I will try and make this brief.  
11 Those folks who know me know that I can talk for long times, but  
12 I'll be brief. I'm trying to learn from the Senate, perhaps.

13 I have a Bachelor's degree in Chemistry from the  
14 University of Minnesota; a Ph.D. in Microbiology from the  
15 University of Pittsburgh, and then subsequently, three  
16 post-doctoral fellowships: one at the Max Planck Institute in  
17 Tubingen, West Germany -- well, Germany; one in Biology at  
18 Princeton University in New Jersey; and the third one is in  
19 Biochemistry and Cancer Research at Sloan-Kettering Institute in  
20 New York.

21 Following my academic training, I started research at  
22 a contract testing lab, Microbiological Associates in Bethesda,  
23 Maryland, where I really learned about laboratory management and  
24 animal testing protocols for substances in the environment. It  
25 was during that time that many of the substances in the  
26 environment were becoming of concern, not only to me but to the  
27 scientific community. After some time there, it became clear  
28 that moving to an environmental consulting firm and looking at



1 the interface between science and regulatory policy would be a  
2 very important thing to participate in.

3 After I accepted the position as Vice President at  
4 ICF/Clement, which is an environmental consulting firm, I  
5 provided technical and scientific support to the EPA during some  
6 of its most important environmental legislation, including: the  
7 Community Right-to-Know Act, 1986; the Toxics Release Inventory;  
8 and the Chemical Emergency Preparedness Program.

9 During this time of working with the federal agencies  
10 in environmental regulations, one of the facts that becomes very  
11 striking is the lack of a focused area for research to improve  
12 the scientific basis for risk assessment and how we assess human  
13 health risks from these substances. When I was offered the  
14 opportunity to be the Director of the Risk Science Institute at  
15 the International Life Sciences Institute, I accepted with  
16 pleasure, because it allowed me to focus the efforts toward the  
17 research community, to try and fund the academic research to  
18 address these data gaps, and to enhance our methodology for how  
19 we do assess human health risks.

20 While I was quite pleased with the efforts at RSI,  
21 when the Governor's Office called and asked if I would now  
22 consider assisting a public health agency, I was delighted. I  
23 think the multidisciplinary training that I have had over the  
24 past few years has -- will serve me well. I think that the  
25 issue of trying to implement the risk assessment policies at the  
26 state are very critical. I think there are far more interesting  
27 and challenging things to do, and the interaction between the  
28 public health agencies and the Legislature is one of the







1 opportunities I look forward to engaging in.

2 So, I'm very pleased to be here and would be happy to  
3 answer any questions.

4 CHAIRMAN ROBERTI: Thank you very much, Doctor.

5 Senator Ayala.

6 SENATOR AYALA: Dr. Henry, after you and I visited, I  
7 received this letter from the Citizens for a Better Environment.  
8 They're not necessarily in opposition to your confirmation, but  
9 they had some concerns about your position regarding the Bay  
10 piers where a lot of people fish for their livelihood, by the  
11 way. And I understand that some of that fish, like the striped  
12 bass, may be contaminated with mercury.

13 They wanted to make sure that these warnings were  
14 posted, alerting people to that problem. They've had a problem  
15 having the Environmental Protection Agency doing that.

16 They had three questions that they wanted me in  
17 particular to ask of you. Number one, in terms of that problem  
18 I just raised, would you work directly with the affected  
19 minority and immigrant fishing communities on their health  
20 concerns? And I would say, of course you will.

21 So, number two: would you ensure that existing San  
22 Francisco Bay/Delta Region Fish Health Advisory will be  
23 effectively communicated in appropriate language to the  
24 multicultural minority constituency? I understand there're a  
25 lot of folks that don't really speak the language, and they  
26 fish, and they're not aware that this could be a problem to  
27 them. A health advisory which states that women, pregnant  
28 women, and children should not eat striped bass caught in the



1 Bay, they wondered if you would state your position in terms of,  
2 I guess, advising these folks of some signs up there that  
3 they're doing it at their own risk, or something of that nature.

4 Do you have any comments on that?

5 DR. HENRY: Yes. This is the issue to which Senator  
6 Calderon also referred.

7 I met with parts of this group, the SAFER, last  
8 Thursday and had agreed to try and facilitate some of these  
9 concerns for them.

10 As you I might know, our agency is not responsible  
11 for postings.

12 SENATOR AYALA: You're not responsible?

13 DR. HENRY: We're not responsible for postings.

14 SENATOR AYALA: Who is responsible?

15 DR. HENRY: Well, I believe Fish and Game is  
16 responsible.

17 Although, what we are actually doing as a result of  
18 that meeting is taking a look at some of these issues. Our  
19 responsibilities as for OEHHHA is to provide the fish  
20 advisories, which we have done. The publication of those fish  
21 advisories is required by the Legislature to be in the  
22 Department of Fish and Game's fishing regulations.

23 It wasn't quite clear what our total responsibility  
24 is in this area, but because we believe that they had some  
25 public health concerns, we met with them. We are trying to  
26 implement the action plan that we agreed to during that meeting,  
27 and I have every confidence that we'll move forward and try and  
28 facilitate this.



1           We're a very tiny agency. We are trying to address  
2 what issues they have raised.

3           SENATOR AYALA: Perhaps the next question's also the  
4 responsibility of Fish and Game.

5           Given your current budget, what will you do now to  
6 conduct testing of fish commonly caught and consumed in the San  
7 Francisco Bay/Delta region for contamination and health risks?

8           Is that your responsibility?

9           DR. HENRY: No. We have no funds for testing in San  
10 Francisco Bay. There are some other groups that are  
11 coordinating testing of certain fish. We, in fact, participated  
12 in a meeting earlier -- earlier last week with the groups that  
13 are trying to do that.

14           I think this may bring to the public fore, however,  
15 some of the concerns that fishing groups have for the quality of  
16 fish in the Bay. We'd be happy to assist in trying to look at  
17 that in any way we can.

18           SENATOR AYALA: Do you think we should direct our  
19 concerns to Fish and Game?

20           DR. HENRY: We'd be happy to try and assist and work  
21 with Fish and Game as well. One of the major functions of our  
22 office is to try and coordinate and facilitate.

23           We can't possibly have enough staff to do all this,  
24 but we do believe we can facilitate these issues.

25           SENATOR AYALA: Thank you.

26           CHAIRMAN ROBERTI: Thank you, Senator.

27           The Science Advisory Panel, which was set up in 1991  
28 pursuant to Proposition 65, identifies chemicals known to cause







1 cancer or reproductive harm, and it was made up of scientists  
2 from academia and from the private sector. After the creation  
3 of Cal-EPA, the Governor appointed a panel made up entirely of  
4 state agency scientists.

5 Some people have raised the charge that the Panel is  
6 no longer independent and will be relatively slow in listing  
7 Proposition 65 chemicals. Do you believe this to be the case?  
8 If so, do you propose any remedies to alleviate the situation?

9 DR. HENRY: Is the question, do I believe listing of  
10 chemicals under Prop. 65 is going to be slow?

11 CHAIRMAN ROBERTI: Right, number one, and two, maybe  
12 because of the nature of the composition of the Panel?

13 DR. HENRY: There are several ways that chemicals are  
14 listed under the Proposition, only one of which is through the  
15 Panel.

16 I do believe in the future that what we like to term  
17 "de novo" listings will be slow because most of the chemicals  
18 that would be easily done have been listed. There are over 500  
19 chemicals on the Proposition 65 list now.

20 With regard to the Panel --

21 CHAIRMAN ROBERTI: How many of those chemicals were  
22 initially listed in the Proposition?

23 DR. HENRY: Because there are other means for listing  
24 the chemicals, I believe, through an authoritative body or  
25 regulation, I believe if you go back, there only are about five  
26 chemicals that would have been listed by the Panel on its own  
27 out of the 500.

28 With regard to the composition of the present Panel



1 as it was put together last year, one of the first activities  
2 that Secretary Strock asked me to look at was scientific peer  
3 review in general for OEHHA, and in particular these expert  
4 independent scientific advice that should be part of the  
5 Proposition 65 issue. I've done that. We've had a number of  
6 internal reviews and meetings. We've also impaneled the Cabinet  
7 level Proposition 65 working group, which is comprised of other  
8 state agency heads, to give us guidance on how we should manage  
9 some of those issues. Within a short time, we should be  
10 releasing a proposal to reconfigure the Science Advisory Panel.

11 I'm very committed to external independent scientific  
12 peer review. I think that is an absolute must in the whole  
13 scientific area. The panel would be comprised of outside  
14 scientists, and we would bring to them the issues associated  
15 with not only with Prop. 65, but other risk assessment issues  
16 that come before OEHHA. And we should be releasing that --

17 CHAIRMAN ROBERTI: And the panel advises you  
18 directly, even though it wouldn't be the, per se, Science  
19 Advisory Panel that lists?

20 DR. HENRY: No, in fact, one of the major efforts as  
21 we looked at how we would do scientific peer review was that to  
22 date, most of the emphasis had been on Proposition 65 issues.  
23 The listing issues and the no-significant-risk level issues that  
24 are associated with Prop. 65 had really required a lot of  
25 attention.

26 Some other things that we really need scientific peer  
27 review on, there just hasn't been enough time or mechanism to  
28 look at that. So, that's why we're trying to reconfigure the



1 Science Advisory Board for OEHHA. Subcommittees would then be  
2 responsible for taking a look at the Prop. 65 issues. It would  
3 change the state's qualified experts to be OEHHA as opposed to  
4 an outside group.

5 We are going to be distributing this proposal to the  
6 public. We will have a public workshop, most likely in July,  
7 and try and fully and openly discuss the advantages and  
8 disadvantages of this proposal.

9 I'd be happy to send this to you, if you'd like.

10 CHAIRMAN ROBERTI: Please do, yes, thank you.

11 Right now in posting Prop. 65 warnings, it's only  
12 necessary, I guess, to post that the chemical involved would  
13 cause reproductive harm or possible --

14 DR. HENRY: Known to the state; known to the state to  
15 cause cancer or reproductive harm.

16 CHAIRMAN ROBERTI: Right.

17 There have been some suggestions, and I'd like to  
18 know your opinion on them, as to stating specifically the  
19 chemical involved, and maybe more specific information as to the  
20 nature of the harm or the nature of the harm that might be  
21 caused.

22 DR. HENRY: The issue of warning regulations under  
23 Prop. 65 has received a lot of attention over the past two to  
24 three years. OEHHA has had four public workshops, trying to  
25 establish regulations that would helpful and improve the quality  
26 of the warnings.

27 It is our and my own personal opinion that the  
28 warnings are oftentimes not useful. I do think some revisions







1 are necessary.

2 CHAIRMAN ROBERTI: Why is that? Because they're too  
3 complex?

4 DR. HENRY: No, they're meaningless warnings.

5 One of the proposed regulations, changes, had been to  
6 specify the chemical, and to do a number of these issues.

7 We've been reviewing this. We are going to move, do  
8 something in this area, but it has been very complex.

9 We're actually not required to do any warnings at  
10 all. We are doing this as an assistance to the regulated  
11 community to give some guidance and some assurances on what  
12 would be acceptable and what would not.

13 So, this is fairly complicated. There are very  
14 strong feelings in this area. We are trying to have open  
15 discussions about it to arrive at something that will improve  
16 the quality of the warnings.

17 CHAIRMAN ROBERTI: Regulations adopted by the  
18 previous administration exempting food, drugs, cosmetics,  
19 medical devices meeting federal safety standards from the  
20 requirements of Prop. 65 were recently struck down by, I think,  
21 the trial court. The current administration appealed the ruling  
22 but recently settled the case by agreeing to repeal the  
23 regulation on July 1 of this year. The producers of the  
24 products oppose, I guess, this settlement.

25 What is your position? What do you see as the  
26 eventual outcome?

27 DR. HENRY: This is -- has a long, distinguished  
28 history.



1           The original regulation was an interim regulation.  
2 It was made as a recommendation from the present -- the Science  
3 Advisory Panel at that time to give some safe harbors for  
4 chemicals until such time as -- I believe at the time they  
5 recommended 50 no significant risk levels could be adopted.

6           We now have over 200 no significant risk levels, and  
7 so under the terms that the interim regulation was put in place,  
8 it was time to repeal it.

9           It was never considered an exemption. It was an  
10 interim regulation.

11           In the course of the legal activities -- which, as  
12 you know, I'm not a lawyer -- it was determined that the state  
13 would most likely -- did not have a strong case, and the  
14 recommendations were therefore to settle.

15           My own opinion is that very little is going to  
16 change. That I think that it's -- that we will proceed. As  
17 part of the settlement agreement, we've agreed, our office has  
18 agreed, to establish, I think, 29 no significant risk levels for  
19 carcinogens.

20           The interim regulations never covered reproductive  
21 toxicants. It was only carcinogens. So, we then tried to  
22 identify substances that might be of grave concern to the  
23 regulated community. They recommended no chemicals to us, so we  
24 attempted to identify them ourselves, and we'll be proceeding to  
25 try and meet this deadline of July 1 for the 29 chemicals.

26           CHAIRMAN ROBERTI: Do you feel that California's  
27 regulatory standards for allowable exposures to toxic substances  
28 protects the health of infants, children, adequately? Are there



1 any areas where you would expand?

2 DR. HENRY: I think the issue of protecting sensitive  
3 subpopulations and special groups is one we must be vigilant  
4 about always. I do believe that our regulatory apparatus does  
5 protect sensitive populations. I just think that the amount of  
6 information we have in that area could always be improved.

7 We in California have been among the first to  
8 identify some of these areas to further understand exposures and  
9 circumstances. Children have very special circumstances.  
10 They're growing; their bodies are changing in ways that do not  
11 happen to adults. We need to take those factors into  
12 consideration, which I believe we do, in our programs.

13 CHAIRMAN ROBERTI: Any other questions?

14 Is there anyone here in support of the nomination?  
15 Please come forward.

16 MR. WISEMAN: My name is Ken Wiseman. I currently  
17 manage a law firm in Bakersfield, California. Last year, I was  
18 the Governor's Undersecretary of Cal-EPA.

19 Mr. Beverly and Mr. Craven trained me about 20 years  
20 ago to be brief when I was a staffer here, so I'll keep it to  
21 that point, other than that I was partially responsible, I  
22 think, for recruiting Carol Henry out here. And as one who's  
23 now returned to the private sector and sees the critical need  
24 for the kind of special talent that she has to bring industry,  
25 the academic community and government together, she is uniquely  
26 qualified.

27 I've continued to be involved with her, working along  
28 with the academic community, with environmentalists like Michael





1 Trainer and the like, who we continue to bring together the  
2 different communities and make government work and bring  
3 together the kind of information and talent that Carol has  
4 uniquely been able to do because of her common sense; not a  
5 scientist who has lost touch with the real world, very much in  
6 touch with the real world.

7 I definitely encourage her confirmation.

8 CHAIRMAN ROBERTI: Thank you very much.

9 Anyone else?

10 Is there anyone here in opposition? Is there anyone  
11 here who would like to just testify generally with concerns on  
12 the nomination? Please come forward.

13 MR. HOLLAND: My name is Dorsey Holland, and I'm a  
14 member of SAFER, Southbay Anglers For Environmental Rights.

15 We've been working with Dr. Henry about protecting  
16 the health and safety of the --

17 CHAIRMAN ROBERTI: Can you talk up just a little bit  
18 into the microphone?

19 MR. HOLLAND: We've been dealing with Dr. Henry about  
20 protecting the health and safety of people that fish around the  
21 Bay areas. We're not for or against her, but we're just sort of  
22 concerned that she's not going to work with the community, and,  
23 you know, concerned that she's not going to work with the  
24 communities by her decisions.

25 Wendall Chin of Citizens for a Better Environment  
26 will make it more clear for you.

27 CHAIRMAN ROBERTI: Yes, thank you.

28 Next witness, please give your name.



1 MR. CHIN: My name is Wendall Chin. I'm the field  
2 organizer with Citizens for a Better Environment, and the  
3 organizer for this specific chapter which has been working with  
4 Carol Henry, Dr. Carol Henry, on this concern.

5 Southbay Anglers for Environmental Rights is  
6 comprised basically of people who fish from the piers. Right  
7 here we have two local anglers, people who fish on a consistent  
8 basis and who often go throughout the piers and know what's  
9 going down, right down the level, where -- where Dr. Henry's  
10 decisions and her agency has put this health warning out where  
11 people are not informed about this.

12 We are supported by a lot of different greater Bay  
13 region community groups, as well as environmental groups, on  
14 this issue who have also sent in a resolution asking Fish and  
15 Game as well as Dr. Henry's office to work on a creative  
16 solution to combining resources as well as working with the  
17 community on addressing this concern about people consuming  
18 contaminated fish.

19 This is a big problem because there are over a  
20 quarter million licensed anglers in the Bay Area alone. That  
21 doesn't mean on the piers. You don't even need a license to  
22 fish.

23 Most of the people on the piers are immigrant  
24 background, or low-income -- or from low-income backgrounds.  
25 Those are the ones who consume the fish at a high,  
26 disproportionate rate.

27 Only recently has this been recognized as an issue.  
28 Now, one of the things that we're here about there is our



1 concern for this health warning, that people are not adequately  
2 informed in their own language, as well as -- not just  
3 adequately informed, but also that they -- they as well support  
4 these agencies, but yet are not getting adequate attention from  
5 these agencies.

6           So, we have been working, trying to work with Dr.  
7 Henry's agency as well as Fish and Game on this. And I've  
8 appealed to them for assistance.

9           This health warning comes in the Fish and Game Health  
10 Booklet and states that -- I have a copy of it here for you.  
11 That's a copy of the actual health warning. There are two  
12 agencies -- Fish and Game and OEHHA -- who jointly put out this  
13 warning. This warning has been out for -- since the early '70s.  
14 This has been admitted by both agencies that it's been out for a  
15 long time. Yet, when we ask if they -- have they updated it,  
16 they say briefly in the early '80s, but not -- not in any  
17 adequate sense and which addresses the people -- the fish that  
18 people catch and eat.

19           We have lots of families on these piers bringing home  
20 the fish. So, what we're talking about is an outdated health  
21 warning that shows that there's no evidence out there to confirm  
22 that it's safe out there to eat.

23           And if you talk to people on the piers, we'll have  
24 Kalon, who fishes, has been fishing for 20 years, to give a  
25 really quick explanation of what he's seen.

26           CHAIRMAN ROBERTI: We're going to break for five  
27 minutes. We'll take your testimony next, and then Doctor, you  
28 may respond, and then we'll take whatever other witnesses or







1 further questions there are.

2 So, the Senate Rules will stand in recess for five  
3 minutes.

4 [Thereupon a brief recess was taken.]

5 CHAIRMAN ROBERTI: Senate Rules Committee will  
6 reconvene.

7 Yes, the gentleman here. We were awaiting your  
8 testimony. Please identify yourself.

9 MR. WOFFORD: Good afternoon. Kalon Wofford. I am a  
10 resident of Oakland, California, and I'm on the SAFER leadership  
11 staff.

12 As Wendall put it earlier, I have been fishing in the  
13 bays for over 20 years. And in those 20 years, I have caught  
14 almost every species of fish in the Bay.

15 And with -- since I am an English reading and  
16 speaking person, I understand the importance of the health  
17 warnings. But I have many friends who aren't really English  
18 speaking and don't really understand what these warnings are.

19 I feel it's important that these people have a right  
20 to have things explained to them the way that it has been  
21 explained to us.

22 Now, with the species of the striped bass, as far as  
23 the mercury warnings, or whatever, the mercury is not just the  
24 problem. There are other things in the bays that contaminate  
25 the fish. Now of recent, I'd say a good four weeks ago, I  
26 caught a striped bass, as well as a smelt and perch. And in  
27 those fish I found parasites as well as a peculiar odor.

28 Now, I know of people who are not allergic to fish,



1 but have eaten fish from out of the Bay that have swollen up  
2 from some sort of contaminant, and I'm not exactly sure what.

3 Now, we met with Dr. Henry, and of course, like  
4 Dorsey has said, that we do not -- we are not -- we do not  
5 oppose or are we for her appointment.

6 But because of the during the meeting, we -- we just  
7 felt that things didn't go as well as we had liked it to. We  
8 felt that we weren't listened to, and we felt that we were kind  
9 of brushed up under the rug without the voice of the community  
10 being heard.

11 I think you had something else that you wanted to  
12 address, Wendall?

13 MR. CHIN: Wendall Chin again.

14 Like Kalon said, we are not for or against Dr. Henry,  
15 but we did -- Dr. Henry has agreed to meet with us, has met with  
16 us, and we applaud her on that. We're glad that her agency has  
17 finally met with community folks.

18 However, we are concerned about what her agency can  
19 do for us. We were told what she can't do for us, but we had  
20 presented to her a written format, a written set of our concerns  
21 laid out as to what we think the best way to approach this  
22 problem is. There were a couple components to it. Basically it  
23 was a community education -- public education and community  
24 outreach program which has the health warning, basically, in  
25 pamphlets translated into the different languages of people on  
26 the piers posted, in communities, and also distributed to  
27 communities, as well as having -- working with Fish and Game on  
28 getting training for staff, multicultural training for staff so



1 certain people -- so people can understand what they're being  
2 told as well as a fish testing program.

3 So, at this point, we are -- we have a two week  
4 response and we're waiting for that response, and we are  
5 honoring that, honoring her word. That's why we're not for or  
6 against her appointment, but we are concerned that we might not  
7 get a response in adequate fashion.

8 CHAIRMAN ROBERTI: Thank you.

9 MR. WOFFORD: Also -- I'm sorry, this is Kalon again.

10 I'd like to go back to something about -- something  
11 that Dr. Henry said earlier about the warnings are useless.

12 DR. HENRY: That was with regard to Prop. 65, not the  
13 fish advisories.

14 MR. WOFFORD: That's fine. I didn't understand that.  
15 I'm sorry.

16 Also, during the meeting that -- back during that  
17 meeting, I would like to address one other thing, where she said  
18 that it's better to eat fish than to not eat fish. But if you  
19 have -- if you have a family, and you're feeding them these  
20 fish, and they don't know if there's a warning on them, if  
21 they're supposed to eat it, they're not supposed to eat it, what  
22 makes it better? It doesn't make it any better. It makes it to  
23 where it's like we don't know. And they don't know.

24 So, in closing, what I would like to know is what  
25 Dr. Henry's agency plans to do.

26 Thank you.

27 CHAIRMAN ROBERTI: Thank you.

28 Dr. Henry, do you want to respond?





1 DR. HENRY: Yes.

2 As all three gentlemen have indicated, we did have, I  
3 thought, a very productive meeting where we agreed on a number  
4 of things we were going to do. One of the issues has to do with  
5 the multicultural issues associated with the fish advisories.  
6 We've agreed to look into this, to try and figure out how to do  
7 this.

8 Fish and Game participated in this meeting. We also  
9 agreed to try and contact the local county health officers,  
10 since in some cases they're responsible for providing  
11 information to their jurisdictions. We've already started doing  
12 that.

13 So, to the extent that we're able, I think we are  
14 trying to address this.

15 We are quite concerned that all members of the public  
16 and of our communities be served. We will have limited  
17 resources. We are continually having limited resources. We  
18 could get into specifics about budgets this year, but everybody  
19 is having a problem that way. So, you know, to the extent that  
20 we are trying to work with this group and address their  
21 concerns, I can assure you, we are trying to do that.

22 CHAIRMAN ROBERTI: Thank you very much, Doctor.

23 Is there anyone else here in support, opposition, or  
24 concerns?

25 Senator Craven.

26 SENATOR CRAVEN: Thank you, Mr. Chairman.

27 Doctor, is there any evidence to indicate the amount  
28 of problems that have befallen the citizenry there by virtue of



1 eating a fish that has too much mercury content in it?

2 DR. HENRY: No, there is no evidence, but I think one  
3 of the issues is that the fish advisory for striped bass, with  
4 the concerns for mercury, we're not banning these fish. The  
5 advisory suggests how much one should eat and how frequently, so  
6 that one is not -- I mean, after all, the issue is how much of a  
7 toxic material do we eat.

8 So, I think the issue that they're raising here is of  
9 concern, but we're not banning the fish. We're just  
10 recommending a certain amount to be eaten.

11 SENATOR CRAVEN: Well, I really don't know how you  
12 ban a fish.

13 DR. HENRY: Well --

14 SENATOR CRAVEN: How do you do that?

15 DR. HENRY: We could make -- I mean, I think that  
16 there have been recommendations that certain fish not be eaten  
17 under any circumstance.

18 SENATOR CRAVEN: Does that ban it? You may say that  
19 that's not appropriate, and I would understand that, but to say  
20 "ban it", you can't control the personality of somebody with a  
21 fishing pole. That's just too much, even though you are a  
22 Ph.D., and other things.

23 DR. HENRY: Oh, I agree with that. We have very  
24 little influence.

25 SENATOR CRAVEN: I don't for the moment question your  
26 magnificent credentials, but it's just a common sense thing.

27 And another thing I'd like to ask, does anybody know  
28 how many languages are spoken among fishermen in San Francisco?



1 Do any of the gentlemen who offered testimony know?

2 MR. CHIN: We're asking for the main languages on the  
3 piers, which would be six, including English. That, in addition  
4 to English, Spanish, Chinese, Vietnamese, Tagalog, Laotian, and  
5 Korean.

6 Now, this has been already done on the Dumbarton  
7 piers by the federal U.S. Fish and Wildlife Service. They've  
8 already posted six languages at these piers.

9 SENATOR CRAVEN: Well, would you and those who follow  
10 in your organization be happy if, under the aegis of the state,  
11 that we would do the same thing, the posting?

12 MR. CHIN: I think that's what we've been asking for  
13 all along. We feel that we're not asking for much. We think  
14 that basically we just want people informed. We want people to  
15 know.

16 SENATOR CRAVEN: I understand.

17 It's also my understanding that basically that  
18 posting is not under the purview of the Doctor's operation, but  
19 under the Fish and Game people.

20 Is that not correct, Doctor?

21 MR. WOFFORD: At the meeting we had on the 27th, I  
22 believe, of May, Fish and Game said that they didn't fall under  
23 that, either.

24 SENATOR CRAVEN: Did they suggest anyone?

25 MR. WOFFORD: They suggested, I think it was -- who's  
26 the other -- it was some other department. I can't remember.

27 DR. HENRY: One of the issues here, Senator, is that  
28 because it wasn't clear who might do this, was one of the





1 reasons I tried to offer to facilitate this.

2 SENATOR CRAVEN: Yes.

3 DR. HENRY: And to try and do what we could. I  
4 didn't want a situation where another government agency is  
5 saying, "We can't."

6 I am trying to say it might not be completely easy,  
7 and I'm not sure I know how to do it, but I'm trying to  
8 facilitate it.

9 SENATOR CRAVEN: Yes. I know the bureaucratic  
10 environment here is not the easiest to wend your way through.

11 But basically what they're asking for is really a  
12 very simple request; is it not?

13 DR. HENRY: I'm not sure how simple it is, Senator.  
14 I don't know exactly how many piers, or where, or how it would  
15 be done. We physically don't have the ability to do that. I  
16 said we would try and -- that's why I wanted to talk to the  
17 local county health officers.

18 SENATOR CRAVEN: Yes.

19 Well, I get the impression that these gentlemen and  
20 the persons that they represent have no quarrel with your  
21 candidacy for this position, but they would like to bring to  
22 your attention that which they have made mention of, and I'm  
23 sure that you will do that or probably already have.

24 Mr. Chairman, if there's no further discussion, I'm  
25 ready to make a motion.

26 CHAIRMAN ROBERTI: Senator Craven.

27 SENATOR CRAVEN: I would move the confirmation of  
28 Dr. Henry.



1 CHAIRMAN ROBERTI: Senator Craven moves confirmation  
2 of Dr. Henry.

3 Any discussion or debate? Any opposition? Hearing  
4 none, Secretary will call the roll.

5 SECRETARY WEBB: Senator Ayala.

6 SENATOR AYALA: Aye.

7 SECRETARY WEBB: Ayala Aye. Senator Beverly.

8 SENATOR BEVERLY: Aye.

9 SECRETARY WEBB: Beverly Aye. Senator Petris.

10 SENATOR PETRIS: Aye.

11 SECRETARY WEBB: Petris Aye. Senator Craven.

12 SENATOR CRAVEN: Aye.

13 SECRETARY WEBB: Craven Aye. Senator Roberti.

14 CHAIRMAN ROBERTI: Aye.

15 The vote is five to zero; confirmation is recommended  
16 to the Floor.

17 DR. HENRY: Thank you very much.

18 [Thereupon this portion of the  
19 Senate Rules Committee hearing  
20 was terminated at approximately  
21 3:02 P.M.]

22 --oo0oo--  
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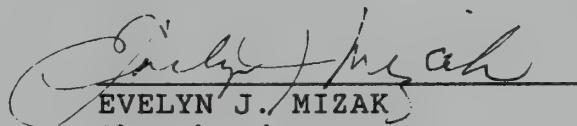
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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 4<sup>th</sup> day of June, 1993.

  
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